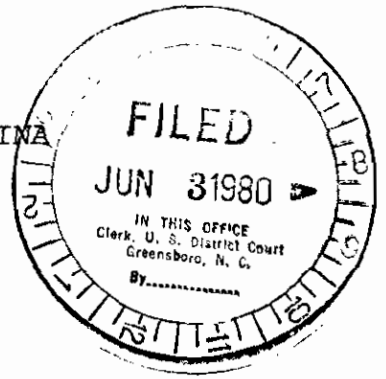


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

STANDING ORDER NUMBER 1

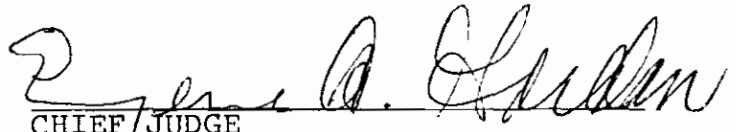



For good cause appearing to the court,

IT IS ORDERED THAT:

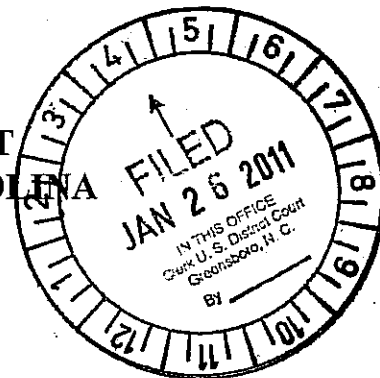
1. A standing Order is one so designated and approved by all or a majority of the judges of this court.
2. Normally, Standing Orders will be applicable to situations which are likely to re-occur, define court policy or relate to this Court's administrative procedures (as distinguished from orders applicable in a particular case), but not of sufficient interest or concern to the bar and general public as to warrant inclusion in the Local Rules of Practice and Procedure of this Court.
3. Standing Orders are public documents.
4. The clerk will file them in a manner suitable for convenient reference, and disseminate copies of all such orders to all judicial officers in this district, the Chief Probation Officer, United States Attorney and United States Marshal.

This the 2nd day of June, 1980.


CHIEF JUDGE


DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**



Standing Order 2)	
Standing Order 3)	
Standing Order 4)	
Standing Order 15)	Standing Orders No Longer
Standing Order 18)	Considered Necessary
Standing Order 19)	
Standing Order 25)	
Standing Order 37)	

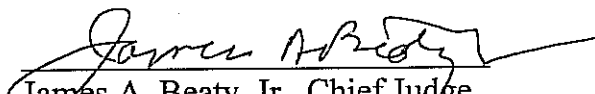
IT APPEARING THAT the following standing orders are no longer necessary due to the current policy, procedures and practices in the Middle District of North Carolina:

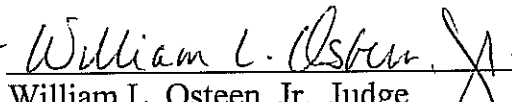
Standing Order 2	Use of Law Students as Part-Time Law Clerks
Standing Order 3	Implementing Plan for Furnishing Representation and Services Pursuant to the Criminal Justice Act of 1964
Standing Order 4	Disposition of Property in the Custody of Law Enforcement Officers in Criminal Cases
Standing Order 15	Conditions of Supervised Release
Standing Order 18	Discretionary Carrying of Firearms by Probation Officers
Standing Order 19	Conditions of Probation and Supervised Release
Standing Order 25	Minimum Requirements for Reporting Violations Probation and Supervised Release
Standing Order 37	Location Monitoring Program Conditions


NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing


orders are hereby revoked, effective immediately.

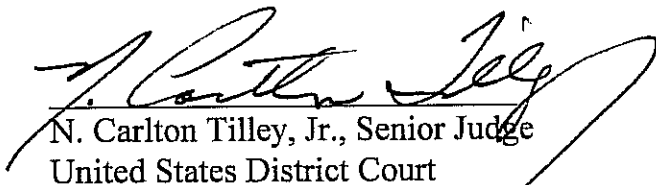
This the 26th day of January, 2011.


James A. Beaty, Jr., Chief Judge
United States District Court

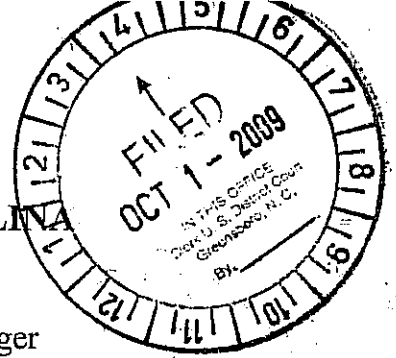

William L. Osteen, Jr., Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court


Catherine C. Eagles, Judge
United States District Court


N. Carlton Tilley, Jr., Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Standing Order 7)	
Standing Order 12)	Standing Orders No Longer
Standing Order 28)	Considered Necessary
Standing Order 29)	

IT APPEARING THAT the following standing orders are no longer necessary due to the current policy, procedures and practices in the Middle District of North Carolina:

Standing Order 7 Appointment of a Person to Serve Civil Process

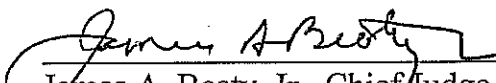
Standing Order 12 In the Matter of Designating the Bankruptcy Clerk as Accountable Officer for Handling Bankruptcy Registry Funds, Costs and Other Matters

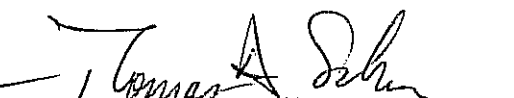
Standing Order 28 Entry of Judgments and Injunctions when Integrated Case Management System (ICMS) is Down

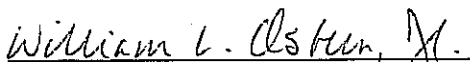
Standing Order 29 Designation of Non-Smoking Area in Courthouse

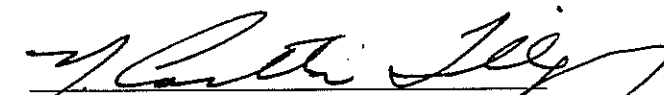
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing orders are hereby revoked, effective immediately.

This the 1st day of October, 2009.

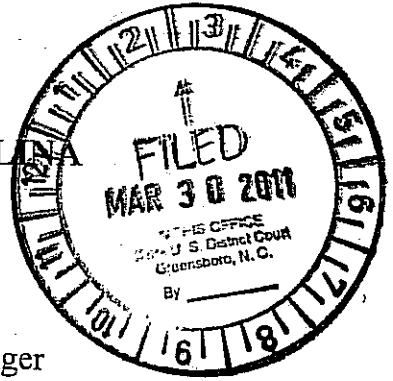

James A. Beaty, Jr., Chief Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court


William L. Osteen, Jr., Judge
United States District Court


N. Carlton Tilley, Jr., Senior Judge
United States District Court

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**



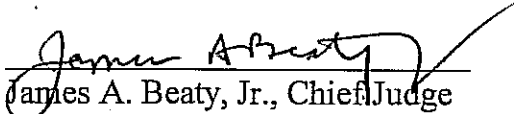
Standing Order 10)	
Standing Order 11)	
Standing Order 13)	Standing Orders No Longer
Standing Order 20)	Considered Necessary
Standing Order 21)	
Standing Order 22)	
Standing Order 34)	

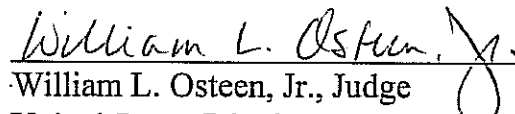
IT APPEARING THAT the following standing orders are included in the local rules of this Court effective April 1, 2011 and will no longer be considered necessary:

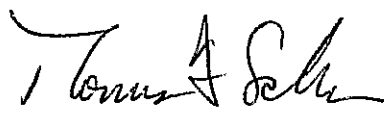
Standing Order 10	In the Matter of the Administration of the United States Bankruptcy Court for the Middle District of North Carolina	Moved to Local Civil Rule 83.11
Standing Order 11	Disclosure of Grand Jury Testimony in Criminal Cases	Moved to Local Criminal Rule 6.1
Standing Order 13	In the Matter of Establishing a Procedure for Objecting to a Bankruptcy Judge's Findings & Recommendations	Moved to Local Civil Rule 83.12
Standing Order 20	Implementation of Sentencing Procedures Under the Sentencing Reform Act of 1984	Moved to Local Criminal Rule 32.2
Standing Order 21	Confidentiality of Presentence Investigation Reports	Moved to Local Criminal Rule 32.3
Standing Order 22	Court Security	Moved to Local Civil Rule 83.8(b)

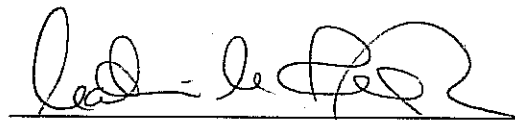
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing orders are hereby revoked, effective April 1, 2011.

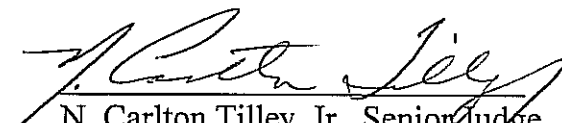
This the 30th day of March, 2011.


James A. Beaty, Jr., Chief Judge
United States District Court

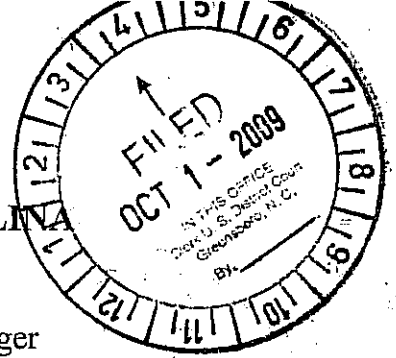

William L. Osteen, Jr., Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court


Catherine C. Eagles, Judge
United States District Court


N. Carlton Tilley, Jr., Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Standing Order 7)	
Standing Order 12)	Standing Orders No Longer
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Standing Order 29)	

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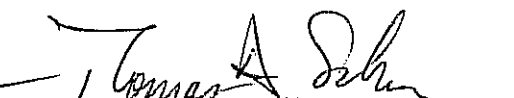
Standing Order 28 Entry of Judgments and Injunctions when Integrated Case Management System (ICMS) is Down

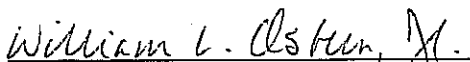
Standing Order 29 Designation of Non-Smoking Area in Courthouse

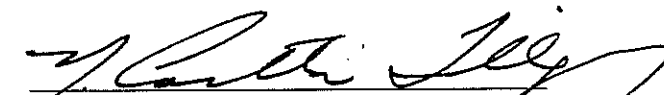
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing orders are hereby revoked, effective immediately.

This the 1st day of October, 2009.

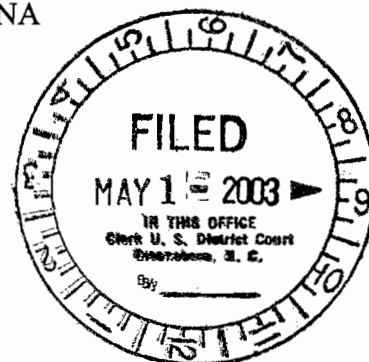

James A. Beaty, Jr., Chief Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court


William L. Osteen, Jr., Judge
United States District Court


N. Carlton Tilley, Jr., Senior Judge
United States District Court


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



STANDING ORDER NUMBER 14
IN THE MATTER OF TRANSCRIPT RATES

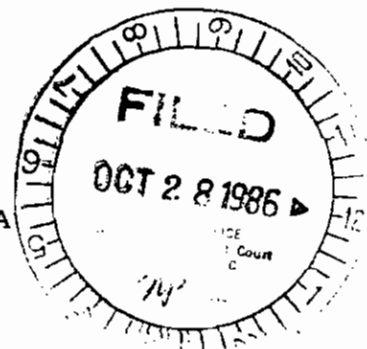
As of April 2, 1992, Standing Order 14 is superceded by Standing Order 27.

Dated this day of 1st May 2003.


J.P. Creekmore
Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

STANDING ORDER NUMBER 14
IN THE MATTER OF TRANSCRIPT RATES



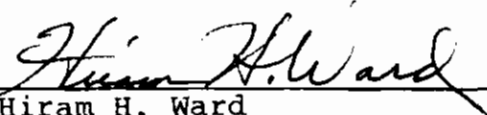
Pursuant to a resolution adopted by the Judicial Conference of the United States at its September 1986 meeting, the following maximum allowable transcript rates are approved and effective in this District as of 28th October, 1986, and until such time as the fee structure is further reviewed by the Judicial Conference of the United States:

	<u>Original</u>	<u>First Copy to Each Party</u>	<u>Each Additional Copy to the Same Party</u>
Ordinary Transcript	\$3.00	\$.75	\$.50
Expedited Transcript	4.00	.75	.50
Daily Transcript	5.00	1.00	.75
Hourly Transcript	6.00	1.00	.75

Said maximum allowable transcript rates will not apply to any transcripts paid for by funds from the Federal Treasury, such as and including any transcript ordered by the U. S. Attorney, or under the Criminal Justice Act, or on behalf of a person proceeding in forma pauperis as long as the Gramm/Rudman/Hollings Act is in effect.

This 28th day of October, 1986.

For the Court:


Hiram H. Ward
Chief Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



EQUAL EMPLOYMENT)
OPPORTUNITY PLAN)
FOR)
UNITED STATES DISTRICT)
COURT FOR THE MIDDLE DISTRICT)
OF NORTH CAROLINA)

STANDING ORDER
NUMBER 16

I. Pursuant to resolutions of the Judicial Conference of the United States and for good cause appearing to the Court, this Court will promote equal employment opportunity through a program encompassing all facets of personnel management; including recruitment, hiring, promotion, advancement, etc.; and will provide equal employment opportunity to all persons regardless of their race, sex, color, national origin, religion, age (at least 40 years of age at the time of the alleged discrimination), or handicap. This program, which will be evaluated periodically, is not intended to modify or reduce the qualification standards for employment in the Federal courts as such standards have been approved by the Judicial Conference of the United States.

II. SCOPE OF COVERAGE.

This Equal Employment Opportunity Program applies to all court personnel including judges' staffs and court officers and their staffs.

III. ORGANIZATION.

A. Implementation.

The court shall implement the Equal Employment

- Opportunity Program. On behalf of the court, the Chief Judge will submit modifications in the plan for Judicial Council approval.

B. Heads of Court Support units.

The heads of each court support unit must ensure that all vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and all hiring decisions are based solely on job-related factors. They should make reasonable efforts to see that the skills, abilities, and potential of each employee are identified and developed, and that all employees are given equal opportunities for promotions by being offered, when the work of the court permits and within the limits of available resources, cross-training, reassignments, job restructuring, special assignments, and outside job-related training.

C. Judges, Court Managers, and Supervisors.

Judges and designated court managers and supervisors must apply equal employment opportunity practices and policies in their work units. This includes giving each employee a fair and equal opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for personnel actions and awards recognizing such achievements. As

resources permit, it also requires providing training programs which enable employees to develop their job skills fully.

D. Equal Employment Opportunity Coordinator.

The court will designate one person to be the Equal Employment Opportunity Coordinator. This person will be responsible for collecting, analyzing, and consolidating the statistical data and statements prepared by each court unit. The Coordinator will then prepare an annual report for the Chief Judge and the Administrative Office describing the court's achievements in providing equal employment opportunities, identifying those areas in which improvements are needed, and explaining those factors inhibiting achievement of equal employment opportunity objectives. Based upon this evaluation and report, the Coordinator will recommend modifications in the plan to the court. The Coordinator will also seek to resolve discrimination complaints informally and will provide EEO information to the public.

IV. PERSONNEL PRACTICES.

A. Recruitment.

Each court unit will seek qualified applicants who reflect the make-up of all such persons in the relevant labor market. Each unit will publicize all vacancies.

B. Hiring.

Each court unit will make its hiring decisions strictly upon an evaluation of a person's qualifications and ability to perform the duties of the position satisfactorily.

C. Promotion.

Each court unit will promote employees according to their experience, training, and demonstrated ability to perform duties of a higher level.

D. Advancement.

Each court unit will seek insofar as reasonably practicable to improve the skills and abilities of its employees through cross-training, job restructuring, assignments, details, and outside training.

E. Discrimination Complaints.

The court adopts the procedures for resolving discrimination complaints set forth in Appendix 1.

V. EVALUATIONS

Each court unit will prepare a brief report for the EEO Coordinator describing its efforts to provide equal employment opportunities in:

- a) Recruitment. Each court unit will describe briefly efforts made to bring a fair cross-section of the pool available for the position into its applicant pool,

including listing all employment sources used (e.g., state employment offices, schools, organizations, etc.).

Each unit will also explain the methods it uses to

- publicize vacancies.
- b) Hiring. Each court unit will identify where its recruitment efforts resulted in the hiring of a cross-section of the pool available and will, if known, explain those instances where members of the cross-section did not accept employment with the court when it was offered.
- c) Promotions. Each court unit will briefly describe promotional opportunities which occurred and will provide an analysis of the distribution of promotions, including a description of those persons who were promoted to supervisory positions.
- d) Advancement. Each court unit will describe what efforts were made to improve the skills and abilities of employees through cross-training, job restructuring, assignments, details, and outside training.

In addition, this evaluation should include information on factors inhibiting achievement of EEO objectives such as no vacancies, minimal numbers of qualified applicants in the relevant labor market, and on all persons in the unit who have received all relevant training. This report will also include a breakdown according to the race, sex, national origin, and handicap of the court's personnel involved on forms to be provided by the Administrative Office of the United States Courts.

The report will cover personnel actions occurring in the year ending September 30 and will be submitted to the EEO Coordinator by November 1 of each year.

VI. OBJECTIVES.

Each court unit will develop annually its own objectives which reflect those improvements needed in recruitment, hiring, promotions, and advancement, and will prepare a specific plan for the EEO Coordinator explaining how those objectives will be achieved.

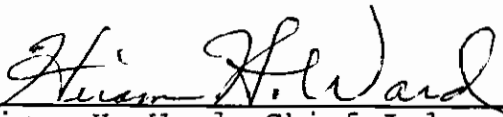
VII. ANNUAL REPORT.

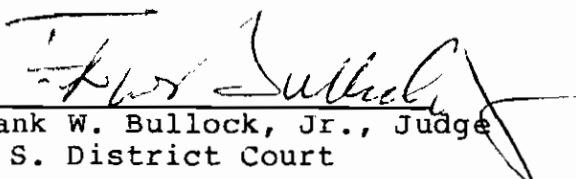
The EEO Coordinator will prepare for the court's approval an annual report for the year ending September 30, consolidating the data and statements received from each court unit. The report will include tables to be provided by the Administrative Office of the United States Courts consolidating the information provided by each court unit. It will also describe instances where significant achievements were made in providing equal employment opportunities, will identify areas where improvements are needed, and will explain factors inhibiting achievement of equal employment opportunity objectives. Upon approval of the court, this report will be submitted by the Chief Judge to the Administrative Office of the United States Courts by November 30 of each year.

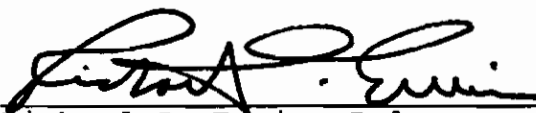
Accordingly, IT IS ORDERED that the foregoing Equal Employment Opportunity Plan and the attached Discrimination

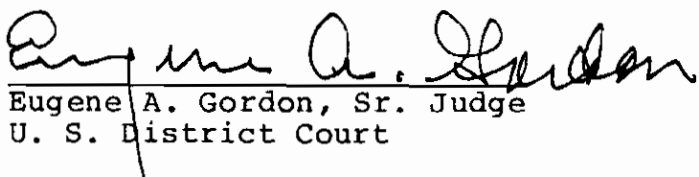
Complaint Procedures promulgated by the Judicial Conference of
the United States are hereby ADOPTED.

This the 3rd day of March, 1987.


Hiram H. Ward, Chief Judge
U. S. District Court


Frank W. Bullock, Jr., Judge
U. S. District Court


Richard C. Erwin, Judge
U. S. District Court


Eugene A. Gordon, Sr. Judge
U. S. District Court

JUDICIARY EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

APPENDIX 1

DISCRIMINATION COMPLAINT PROCEDURES

**Judicial Conference of the United States
March 1980**

(Rev. September 1986)

I. SCOPE OF COVERAGE.

All applicants for court positions and all court personnel may seek timely redress of discrimination complaints through these procedures. These procedures, however, are not intended to be a replacement for the working relationship which must exist between supervisors and employees, nor are they intended to interfere in the administrative processes of the courts.

II. DEFINITION.

A discrimination complaint is any allegation that a person has been denied employment, promotion, or advancement, or has been affected in any other condition of employment, because of his or her race, sex, color, national origin, religion, age (at least 40 years of age at the time of the alleged discrimination), or handicap. It also includes allegations of restraint, interference, coercion, discrimination, or reprisal because a person has raised an allegation of discrimination or has served as a representative, a witness, or an EEO Coordinator in connection with a complaint. It does not include complaints relating other dissatisfactions in a person's conditions of employment which are commonly known as grievances.

III. RIGHTS OF PERSONNEL.

A. Retaliation.

Every complainant has the right to be free from retaliation, coercion, or interference because of filing a timely complaint.

B. Representation.

Every complainant and every person against whom a complaint has been filed has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. A court employee may accept the responsibilities of representation if it will not unduly interfere with his or her court duties or constitute a conflict of interest. A representative who is a court employee shall be free from restraint, interference, coercion, discrimination, and reprisal, and shall have a reasonable amount of official time to accompany, represent, and advise the complainant or the person complained against at any stage in the complaint procedures.

C. Notice.

Every person against whom a complaint has been timely filed has the right to have notice of the charges filed against him or her. All persons involved have the right to reasonable notice of any hearing conducted on a complaint.

D. Preparation.

All court employees involved in a complaint procedure may use a reasonable amount of official time to prepare their case so long as it does not unduly interfere with the performance of their court duties.

IV. PROCEDURES.

A. Initiation of a Complaint.

Any applicant or any court employee, or his or her representative, may file a timely discrimination complaint with the EEO Coordinator. If the EEO Coordinator is named in the complaint or otherwise directly involved in the complaint, he or she shall promptly transmit the complaint to the Chief Judge or a designee who will appoint another person to perform the functions of the EEO Coordinator with respect to the complaint in question. The complaint must be in writing, must allege all relevant facts constituting the basis for such complaint, and must specify the relief requested. A complaint form is available upon request.

B. Informal Procedures.

Upon receipt of a complaint, the EEO Coordinator:

1. May reject a complaint that was not timely filed and shall reject those allegations in the complaint that are not within the purview of Section II of these Discrimination Complaint Procedures, or that set forth identical matters contained in a pending or previous complaint filed by the same complainant;
2. Will make any investigation into the matter which he or she deems necessary;
3. Will consult with the involved parties and seek an informal resolution of the problem;
4. Will prepare a report to the parties identifying the issues, describing his or her findings and recommendations, explaining what resolution, if any, was achieved, and defining what corrective actions, if any, will be undertaken; and
5. May cancel a complaint because of the complainant's failure to prosecute the complaint.

C. Formal Procedures.

1. Filing.

If either the complainant or the person against whom the complaint has been filed objects to the rejection or cancellation of the complaint or any portion thereof, or to the findings and recommendations of the EEO Coordinator, such person may file a written request with the Chief Judge or a designee to have the matter reviewed.

2. Review.

Upon receipt of a request to review the findings and recommendations of the EEO Coordinator, the Chief Judge or a designee will:

- a. Conduct any additional investigation which he or she deems necessary;
- b. Determine whether to interview the parties or other persons;
- c. Determine whether to hold a formal hearing on the matter; and
- d. Issue a final decision on the rejection, cancellation, or merits of the complaint if it is found that no interviews or hearings are necessary.

3. Hearing.

If the Chief Judge or a designee finds that a hearing is necessary, all parties will be notified of such action. At the hearing, each party will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses. The Chief Judge or a designee will issue a final decision on the merits based upon his or her findings.

D. Deadlines.

Initial complaints and the review of complaints are subject to the following deadlines:

1. All complaints must be filed within 15 calendar days of a particular act or occurrence or within 15 calendar days of becoming aware of the act or occurrence, and no late filing will be accepted unless good cause is presented to the EEO Coordinator;
2. The EEO Coordinator will prepare a report within 20 calendar days after consultation with the involved parties;

3. All requests for review of the EEO Coordinator's findings must be submitted within 5 calendar days after receipt of the report;
4. The Chief Judge or a designee will issue a final decision within 45 calendar days after receipt of the request if no hearing is held;
5. The Chief Judge or a designee will issue a final decision within 30 calendar days after the close of a hearing; and
6. The Chief Judge may extend any of the above-mentioned deadlines for good cause.

V. RECORDS

All papers, files, and reports will be filed with the EEO Coordinator at the conclusion of any informal or formal proceeding in a complaint. No papers, files, or reports relating to a complaint will be filed in any employee's personnel folder, except as necessary to implement disciplinary action against any person who engaged in discriminatory conduct.

VI. ANNUAL REPORT.

The EEO Coordinator will prepare an annual report for the year ending September 30, indicating:

1. The number of complaints initiated;
2. The types of complaints initiated according to race, sex, color, national origin, religion, age or handicap;
3. The number of complaints resolved informally;
4. The number of complaints resolved formally without a hearing; and
5. The number of complaints resolved formally with a hearing.

(The foregoing information will not identify the names of the parties involved.)

A copy of the report will remain in the court and will be made available to the public upon request.

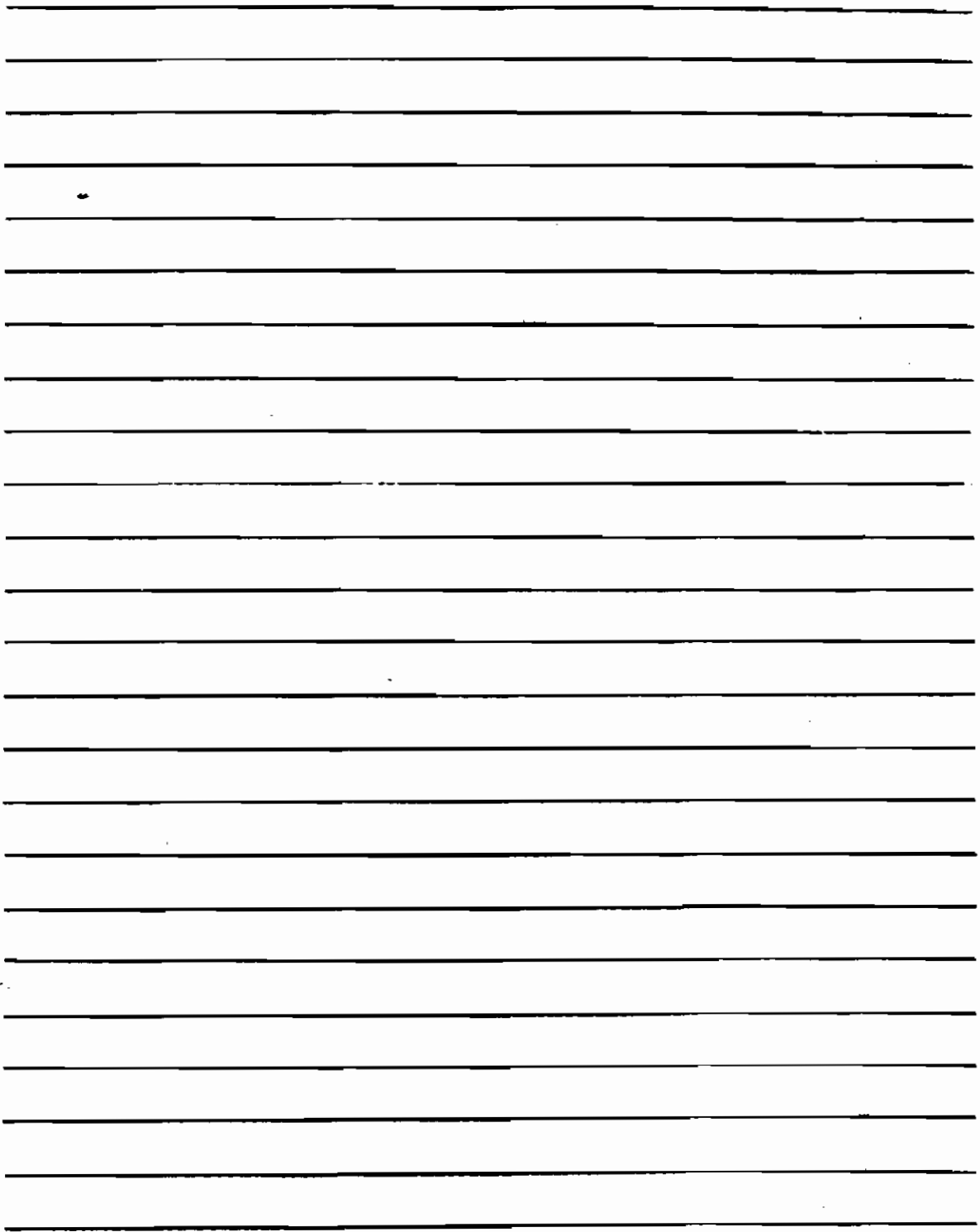
VII. NOTICE.

Copies of these procedures shall be given to all employees and, upon request, to members of the public.

1. Full Name of Complainant: _____
2. Address: _____
_____ Zip Code: _____
3. Home Phone: _____ Work: _____
4. If You Are Now a Court Employee, State the Title and Grade of Your Job: _____
5. Type of Alleged Discrimination: (Check and identify as many as are applicable) _____ Race _____
_____ Sex _____ National Origin _____
_____ Color _____ Handicap _____
_____ Religion _____ Age _____
6. Date of alleged discrimination: _____
7. Please identify by name and position the official you believe discriminated against you.

8. Please summarize the events or occurrences giving rise to your complaint, and explain how you believe you were discriminated against (i.e., treated differently from other employees or applicants because of your RACE, SEX, COLOR, NATIONAL ORIGIN, RELIGION, AGE, OR HANDICAP). * You should attach a copy of any documents that relate to your complaint, such as applications, resumes, notices of denial of employment or promotion, letters of reprimand, termination, etc.

* Please use back if additional space is needed.



9. Corrective action sought by you:

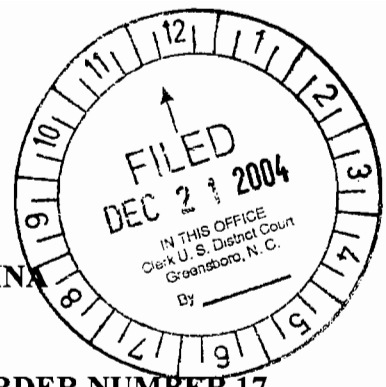
10. Do you have an attorney or other person to represent you?

_____. If yes, name and address of attorney:

Signature

Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**



**DISCRETIONARY CARRYING OF FIREARMS
BY UNITED STATES PROBATION OFFICERS**

STANDING ORDER NUMBER 17

This standing order supersedes Standing Order Number 17, signed and filed on September 27, 2001, and is published under the same Standing Order number.

The carrying of firearms by United States Probation Officers is authorized by 18 U.S.C. §§ 3603(9), subject to approval by the District Court and under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe. It is recognized that probation officers are at risk of physical harm in the performance of their official duties. In the Middle District of North Carolina, probation officers have been the recipients of attempted assaults and threats, both real and implied.


It is now, therefore, ordered that probation officers in the Middle District of North Carolina be authorized to carry firearms in connection with their official duties pursuant to 18 U.S.C. §§ 3603(9), regulations promulgated by the Director of the Administrative Office of the United States Courts, and additional policies of this district as noted in this order.

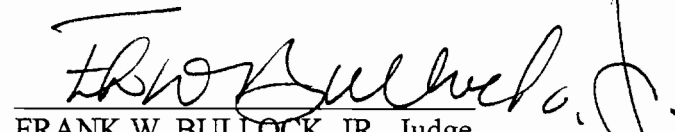
Standards for Authorization and Procedures for Obtaining Authority to Carry a Firearm


1. The probation officer has completed the national and district firearms training programs for probation officers and has qualified thereunder to carry a firearm.
2. The probation officer has presented to the Chief Probation Officer sufficient reasons in writing why the carrying of the firearm is reasonably necessary; (a) in the performance of his or her general duties, or (b) in the performance of a specified assignment.
3. Permission to carry a firearm has been granted in writing by the Chief Probation Officer and Chief United States District Judge.
4. Subject to the availability of funds, requalifications will be scheduled each six months and required of probation officers with the authority to carry a firearm. Officers unable to requalify may be prohibited from carrying a firearm by the Chief Probation Officer until they have requalified, and shall be prohibited from carrying a firearm if they have not requalified within twelve months of their initial qualification or last requalification.

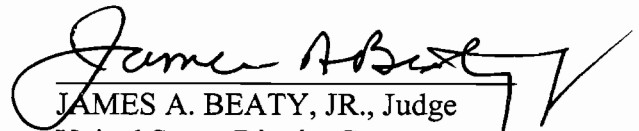
5. Except as provided for in the Firearms Regulations of the Director of the Administrative Office of the United States Courts, Section II (B)(2), permission to carry a firearm may be withdrawn from any probation officer at any time by the Chief Probation Officer at his or her discretion.

This the 21 day of December, 2004.


N. CARLTON TILLEY, JR., Chief Judge
United States District Court


FRANK W. BULLOCK, JR., Judge
United States District Court

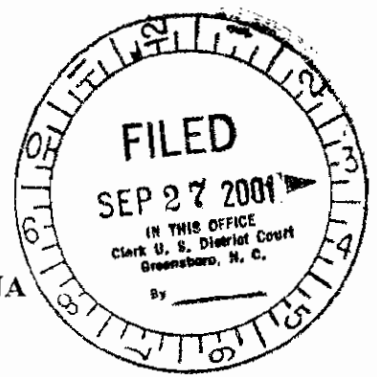

WILLIAM L. OSTEEN, Judge
United States District Court


JAMES A. BEATY, JR., Judge
United States District Court

I have read and understand Standing Order Number 17 and the current firearms regulations issued by the Director of the Administrative Office of the United States Courts.

United States Probation Officer (Date)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



**DISCRETIONARY CARRYING OF FIREARMS
BY U.S. PROBATION AND
PRETRIAL SERVICES OFFICERS**

STANDING ORDER NUMBER 17

This standing order supersedes Standing Order Number 17, signed and filed on April 6, 2000, and is published under the same Standing Order number. For purposes of this order, the Chief Probation Officer has authority over probation officers and the Chief Pretrial Services Officer has authority over pretrial services officers.

The carrying of firearms by United States Probation and Pretrial Services Officers is authorized by 18 U.S.C. §§ 3603(9) and 3154(13), subject to approval by the District Court and under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe. It is recognized that probation and pretrial services officers are subject to serious risk of physical harm in the performance of their official duties. In the Middle District of North Carolina, probation and pretrial services officers have been the recipients of attempted assaults and threats, both real and implied.

It is now, therefore, ordered that probation and pretrial services officers in the Middle District of North Carolina be authorized to carry firearms in connection with their official duties pursuant to 18 U.S.C. §§ 3603(9) and 3154(13), regulations promulgated by the Director of the Administrative Office of the United States Courts, and additional policies of this district as noted in this order. Probation and pretrial services officers who have previously been authorized to carry firearms by this Court and the Chief Probation Officer and Chief Pretrial Services Officer, are herein granted permission to carry a firearm pursuant to this order.

A. Standards for Authorization and Procedures for Obtaining Authority to Carry a Firearm

1. The probation or pretrial services officer has completed the national and district firearms training programs for probation and pretrial services officers and has been qualified thereunder to carry a firearm.
2. The probation or pretrial services officer has presented to the Chief Probation Officer or Chief Pretrial Services Officer sufficient reasons in writing why the carrying of the firearm is reasonably necessary; (a) in the performance of his or her general duties, or (b) in the performance of a specified assignment.
3. The permission to carry a firearm has been granted in writing by the Chief Probation Officer or Chief Pretrial Services Officer.

4. The Chief Judge of the District has been given notice in writing of the permission granted to carry a firearm, and has not objected within forty-eight hours of the notice.

B. Authorized Firearm and Ammunition

The following firearms and ammunition are authorized for use by probation and pretrial services officers. No other firearms or ammunition are authorized to be carried or used.

1. The approved weapon is a government-owned Glock, Model number 22 or 23, .40 S&W, Safe Action, semi-automatic pistol with a trigger pull no less than the factory standard of 5.5 pounds.
 - a. In the rare event an officers' hand size requires a smaller-framed pistol, the Chief Probation Officer or Chief Pretrial Services Officer may authorize an officer to use an appropriate government-owned, double-action-only type, semi-automatic pistol capable of safely firing the services ammunition.
 - b. If a different weapon is authorized, the Chief Probation Officer or Chief Pretrial Services Officer shall submit a report to the Administrative Office of the United States Courts that explains the decision to authorize a different weapon, and that describes the make, model, and serial number of the weapon authorized.
2. The approved duty ammunition is Speer, .40 S&W, 165 grain Gold Dot Hollow Point-HV (GDHP-HV, JHP).
3. The approved training ammunition is Winchester, .40 S&W, 165 grain full metal jacket.
4. All holsters shall enclose the trigger guard and shall have a keeper strap or an approved retention design.

C. Use and Care of the Firearm

A probation or pretrial services officer may use a firearm only in the exercise of his or her rights of self defense or to protect a fellow officer from death or grievous bodily harm in accordance with the law.

Except for transportation to and from a location in which an officer will perform official duties, the probation or pretrial services officer who has been authorized to carry a firearm may only carry or use a firearm in the course of the performance of the officer's official duties.

A probation or pretrial services officer who has been authorized to carry a firearm is responsible for the care and maintenance of the firearm. Repairs on weapons should be made only by a factory-authorized armorer using factory approved parts.

D. Security

A probation or pretrial services officer who has been authorized to carry a firearm shall, while on duty, carry the firearm on the officer's person or shall store it in a locked gun box. Any such officer shall keep the firearm safely secured utilizing a safety lock device anytime the firearm is at the officer's residence.

At no time will the firearm be unattended or open to public display. When in use, the firearm will be carried in such a way so that it will not be visible to the public. It shall never be carried after the probation or pretrial services officer has consumed any alcoholic beverage. The firearm is not to be left in a vehicle while the officer is on duty, either in the community or the office.

E. Training

Probation and pretrial services officers of the Middle District of North Carolina shall not be granted permission to carry a firearm in the performance of their official duties unless they have completed the approved national and district firearms training programs and have qualified thereunder to carry a firearm.

Requalifications will be required each six months after initial qualification. Probation and pretrial services officers who fail to requalify may be prohibited from carrying a firearm by the Chief Probation Officer or Chief Pretrial Services Officer until they have requalified, and shall be prohibited from carrying a firearm if they have not requalified within twelve months of their initial qualification or last requalification.

Probation or pretrial services officers wishing to qualify shall be required to read and sign a copy of the district firearms policy. The original, signed copy, will be included in the probation or pretrial services officers' firearms training file. In the discretion of the Chief Probation Officer or Chief Pretrial Services Officer, permission to carry a firearm may be withdrawn from any probation or pretrial services officer at any time.

F. Inventory Maintenance

The Chief Probation Officer and Chief Pretrial Services Officer in the district shall keep an inventory of all firearms assigned by the Administrative Office of the United States Courts to his/her respective office. The inventory shall include the following information: name and title of officer to whom the weapon is assigned; the serial number of the assigned weapon; the date the weapon was assigned; the date a safety lock was issued to the officer; and a record of maintenance and repairs to the weapon. The inventory and any changes thereto shall be forwarded to the Federal Corrections and


Supervision Division of the Administrative Office. An officer must return the firearm when requested by his/her chief and, in any event, upon termination of the officer's service in the district.

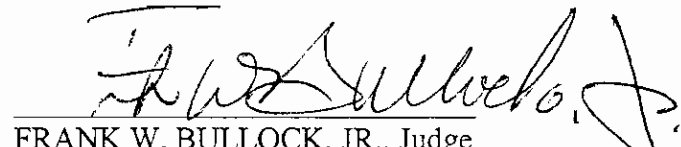
G. Report

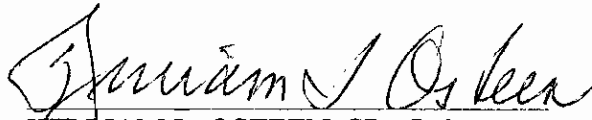
A probation or pretrial services officer who displays or discharges a firearm while in the performance of the officer's duties, except in the course of training or qualification, shall file a report in writing with the Chief Probation Officer or Chief Pretrial Services Officer, as appropriate, within 24 hours. The report shall describe in detail the factual circumstances of, and reason for, the discharge or display of the firearm. A similar report shall be prepared in the event a firearm is lost or stolen, within 24 hours of the officer becoming aware that the firearm has been lost or stolen. The Chief Probation Officer or Chief Pretrial Services Officer shall forthwith send copies of any reports required to the Chief Judge of the District and to the director of the Administrative Office of the United States Courts.

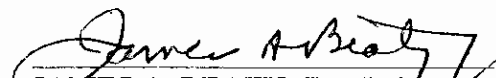
It is ordered that this order shall remain in effect until revoked or modified by further order of this court.

This the 27th day of September, 2001.


N. CARLTON TILLEY, JR., Chief Judge
United States District Court


FRANK W. BULLOCK, JR., Judge
United States District Court

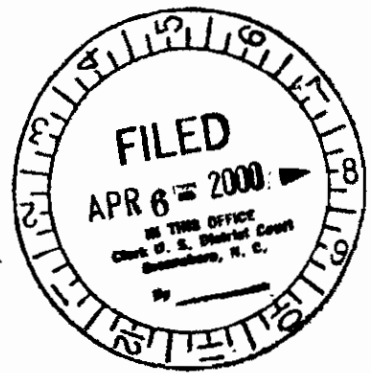

WILLIAM L. OSTEEEN, SR., Judge
United States District Court


JAMES A. BEATY, JR., Judge
United States District Court

I have read and understand Standing Order number 17.

U.S. Probation or Pretrial Services Officer (Date)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



DISCRETIONARY CARRYING OF
FIREARMS BY PROBATION and PRETRIAL SERVICE OFFICERS

STANDING ORDER NUMBER 17

This standing order supersedes Standing Order Number 17 (modified), signed and filed on July 2, 1997, and is published under the same Standing Order number.

The carrying of firearms by United States Probation and Pretrial Service Officers is authorized by 18 U.S.C. § 3603(9), subject to approval by the District Court and under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe. It is recognized that probation and pretrial service officers are subject to serious risk of physical harm in the performance of their official duties. In the Middle District of North Carolina, probation and pretrial service officers have been the recipients of attempted assaults and threats, both real and implied. It is now, therefore, ordered that probation and pretrial service officers in the Middle District of North Carolina be authorized to carry firearms in connection with their official duties pursuant to 18 U.S.C. § 3603(9), regulations promulgated by the Director of the Administrative Office of the United States Courts, and additional policies of this district as noted in this order. Probation officers who have previously been authorized to carry firearms by this Court and the Chief Probation Officer are herein granted permission to carry a firearm pursuant to this order.

A. Standards for Authorization and Procedures for Obtaining Authority to Carry a Firearm

1. The probation or pretrial service officer has completed the National and District firearms training program for probation and pretrial service officers and has been qualified thereunder to carry a firearm.
2. The probation or pretrial service officer has presented to the Chief Probation Officer or the Chief, Pretrial Services sufficient reasons in writing why the carrying of the firearm is reasonably necessary:
 - a. In the performance of his or her general duties, or
 - b. In the performance of a specified assignment.
3. The permission of the Chief Probation Officer or the Chief Pretrial Service Officer has been granted in writing.
4. The Chief Judge of the District has been given actual notice in writing of the permission granted to carry a firearm, and has not objected within forty-eight hours of the notice.

B. Authorized Firearms

All firearms must be purchased by the probation or pretrial service officer or furnished by the Administrative Office of the United States Courts, and must be .38 Special or .357 Magnum revolvers with a cylinder capacity of up to eight rounds capable of firing approved service ammunition. No firearm may be carried by a probation or pretrial service officer on duty unless all requirements as set forth in this order have been met. A probation or pretrial service officer who has been authorized to carry a firearm is responsible for its care and maintenance whether the firearm is the property of the officer or the property of the United States.

C. Use of Firearm

A probation or pretrial service officer may use a firearm only in the exercise of his or her rights of self defense or to protect a fellow officer from death or grievous bodily harm in accordance with the law.

Except for transportation to and from a location in which an officer will perform official duties, the probation or pretrial service officer who has been authorized to carry a firearm may only carry or use a firearm in the course of the performance of the officer's official duties.

D. Security

The firearm must be secured under lock and key in a designated place at all times when not in the physical custody of the officer. At no time will the firearm be unattended or open to public display. When in use, the firearm will be carried in such a way so that it will not be visible to the public. It shall never be carried after the probation or pretrial service officer has consumed any alcoholic beverage. The firearm is not to be left in a vehicle while the officer is on duty, either in the field or the office. The officer shall keep the firearm safely secured any time the firearm is at the officer's residence.

E. Training


Probation and pretrial service officers of the Middle District of North Carolina shall not be granted permission to carry a firearm in the performance of their official duties unless they have completed the approved National and District firearms training programs and have qualified thereunder to carry a firearm. Requalifications will be required each six months after initial qualification. Probation and pretrial service officers who fail to qualify or requalify will be prohibited from carrying a firearm by the Chief Probation Officer or the Chief, Pretrial Services until they are qualified or requalified. Probation or pretrial service officers wishing to qualify shall be required to read and sign copies of the National and District firearms policies. The original, signed copy will be included in the probation or pretrial service officer's file. In the discretion of the Chief Probation Officer or the Chief, Pretrial Service, permission to carry a firearm may be withdrawn from any probation or pretrial service officer at any time.

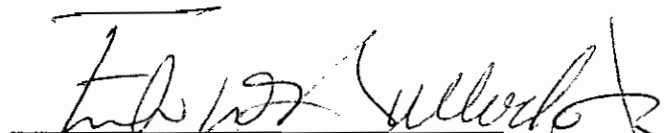
F. Report

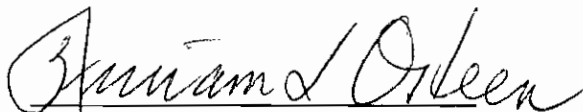
At any time a firearm is discharged or displayed in the course of an officer's official duty, other than for training purposes, and at any time a firearm is lost or stolen, a written report relating the circumstances of the event must be filed with the Chief Probation Officer or Chief, Pretrial Services within 24 hours of the incident. The Chief Probation Officer or Chief, Pretrial Services shall forthwith send copies of any such reports to the Chief Judge of the District and the Director of the Administrative Office of the United States Courts.

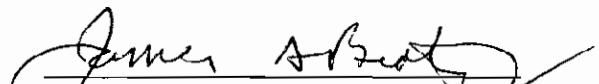
It is ordered that this order shall remain in effect until revoked or modified by further order of this court.

This the 6 day of April, 2000.


M. CARLTON TILLEY, JR., Chief Judge
United States District Court


FRANK W. BULLOCK, JR., Judge
United States District Court


WILLIAM L. OSTEEN, SR., Judge
United States District Court


JAMES A. BEATY, JR., Judge
United States District Court

I have read and understand Standing Order number 17.

U. S. Probation or Pretrial Service Officer (Date)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



DISCRETIONARY CARRYING OF
FIREARMS BY PROBATION OFFICERS

STANDING ORDER
NUMBER 17
(Modified)

This standing order supersedes Standing Order Number 17 (modified), signed and filed on July 30, 1991, and is published under the same Standing Order number.

The carrying of firearms by United States Probation Officers is authorized by 18 U.S.C. § 3603(9), subject to approval by the District Court and under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe. It is recognized that probation officers are subject to serious risk of physical harm in the performance of their official duties. In the Middle District of North Carolina, probation officers have been the recipients of attempted assaults and threats, both real and implied. It is now, therefore, ordered that probation officers in the Middle District of North Carolina be authorized to carry firearms in connection with their official duties pursuant to 18 U.S.C. § 3603(9), regulations promulgated by the Director of the Administrative Office of the United States Courts, and additional policies of this district as noted in this order. Probation officers who have previously been authorized to carry firearms by this Court and the Chief Probation Officer are herein granted permission to carry a firearm pursuant to this order.

A. Standards for Authorization and Procedures for Obtaining Authority to Carry a Firearm

1. The probation officer has completed the National and District firearms training program for probation officers and has been qualified thereunder to carry a firearm.
2. The probation officer has presented to the Chief Probation Officer sufficient reasons in writing why the carrying of the firearm is reasonably necessary:
 - a. In the performance of his or her general duties, or
 - b. In the performance of a specified assignment.
3. The permission of the Chief Probation Officer has been granted in writing.
4. The Chief Judge of the District has been given actual notice in writing of the permission granted to carry a firearm, and has not objected within forty-eight hours of the notice.

B. Authorized Firearms

All firearms must be purchased by the probation officer or furnished by the Administrative Office of the United States Courts, and must be .38 Special or .357 Magnum revolvers with a cylinder capacity of up to eight rounds capable of firing approved service ammunition. No firearm may be carried by a probation officer on duty unless all requirements as set forth in this order have been met. A probation officer who has been authorized to carry a firearm is responsible for its care and maintenance whether the firearm is the property of the officer or the property of the United States.

C. Use of Firearm

A probation officer may use a firearm only in the exercise of his or her rights of self defense or to protect a fellow officer from death or grievous bodily harm in accordance with the law.

Except for transportation to and from a location in which an officer will perform official duties, the probation officer who has been authorized to carry a firearm may only carry or use a firearm in the course of the performance of the officer's official duties.

D. Security

The firearm must be secured under lock and key in a designated place at all times when not in the physical custody of the officer. At no time will the firearm be unattended or open to public display. When in use, the firearm will be carried in such a way so that it will not be visible to the public. It shall never be carried after the probation officer has consumed any alcoholic beverage. The firearm is not to be left in a vehicle while the officer is on duty, either in the field or the office. The officer shall keep the firearm safely secured any time the firearm is at the officer's residence.

E. Training

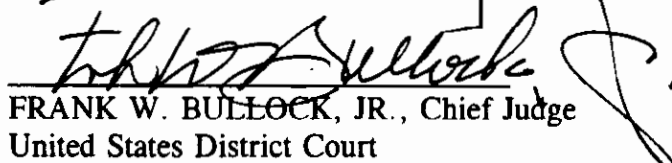
Probation officers of the Middle District of North Carolina shall not be granted permission to carry a firearm in the performance of their official duties unless they have completed the approved National and District firearms training programs and have qualified thereunder to carry a firearm. Requalifications will be required each six months after initial qualification. Probation officers who fail to qualify or requalify will be prohibited from carrying a firearm by the Chief Probation Officer until they are qualified or requalified. Probation officers wishing to qualify shall be required to read and sign copies of the National and District firearms policies. The original, signed copy will be included in the probation officer's file. In the discretion of the Chief Probation Officer, permission to carry a firearm may be withdrawn from any probation officer at any time.


F. Report

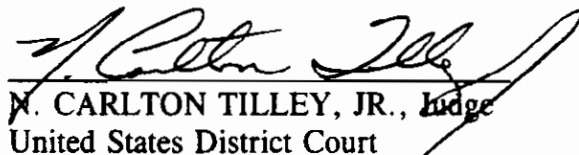
At any time a firearm is discharged or displayed in the course of an officer's official duty, other than for training purposes, and at any time a firearm is lost or stolen, a written report relating the circumstances of the event must be filed with the Chief Probation Officer within 24 hours of the incident. The Chief Probation Officer shall forthwith send copies of any such reports to the Chief Judge of the District and the Director of the Administrative Office of the United States Courts.

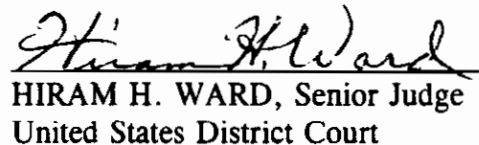
It is ordered that this order shall remain in effect until revoked or modified by further order of this court.

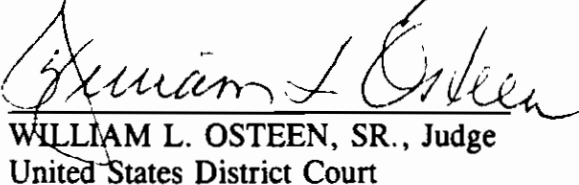
This the 7th day of July, 1997.

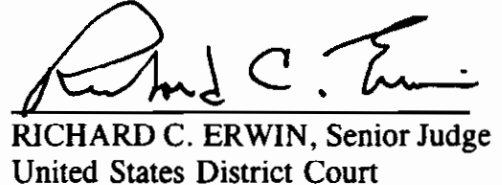

FRANK W. BULLOCK, JR., Chief Judge
United States District Court


JAMES A. BEATY, JR., Judge
United States District Court


N. CARLTON TILLEY, JR., Judge
United States District Court


HIRAM H. WARD, Senior Judge
United States District Court

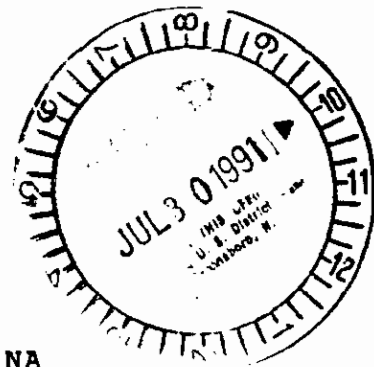

WILLIAM L. OSTEEN, SR., Judge
United States District Court


RICHARD C. ERWIN, Senior Judge
United States District Court

I have read and understand Standing Order number 17.

U.S. Probation Officer (Date)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



DISCRETIONARY CARRYING OF)
FIREARMS BY PROBATION OFFICERS)

STANDING ORDER
NUMBER 17
(Modified)

The carrying of a firearm by U. S. Probation Officers is governed by the criteria promulgated in the reports of the proceedings of the Judicial Conference of the United States held in Washington, D. C. March 6 and 7, 1975, and September 25 and 26, 1975 and any subsequent Judicial Conference whereby official policy was promulgated. It is recognized that probation officers are subject to serious risk of physical harm in the performance of their official duties. In the Middle District of North Carolina, probation officers have been the recipients of attempted assaults and threats, both real and implied. It is now, therefore, respectfully requested that probation officers in the Middle District of North Carolina be authorized to carry a firearm in connection with their official duties by complying with the policy of the Judicial Conference of the United States and with additional policy of this district as follows:

A. Standards for Authorization and Procedures for Obtaining
Authority to Carry a Firearm

1. The law of the State of North Carolina permits the carrying of firearms by Probation Officers. (Covered by G. S. 14-269)
2. The Probation Officer has presented to the Chief Probation Officer sufficient reasons in writing why the carrying of the firearm is reasonably necessary:
 - a. in the performance of his or her general duties, or
 - b. in the performance of duty in a specified assignment.
3. The permission of the Chief Probation Officer has been granted in writing.
4. The Chief Judge of the Court has been given actual notice in writing of the permission granted to carry a firearm, and has not objected within forty-eight hours of the notice.

B. Weapons

All weapons must be purchased by the USPO or furnished by the Administrative Office of the United States Courts, and must be compatible with .38 caliber ammunition. No weapon may be carried by a USPO on duty unless all requirements as set forth in this directive and the approved policy have been met. Ammunition must be standard issue.

C. Use of Firearm

Permission to carry a firearm may be granted only in accordance with the Judicial Conference Policy, and in this regard a Probation Officer may use a firearm only in the exercise of his or her rights of self-defense and in accordance with the law. No Probation Officer may use a firearm unless all other remedies at defusing a hostile situation have failed and the officer believes that:

1. The Probation Officer's life is in jeopardy;
2. The use of the firearm is immediately necessary to preserve the life of the Probation Officer; and
3. No other alternative will allow a safe retreat.

D. Security

The weapon must be secured under lock and key in a designated place at all times when not in the physical custody of the officer. At no time will the weapon be unattended or open to public display. When in use, the weapon will be carried in such a way so that it will not be visible to the public. It shall never be carried after USPO has consumed any alcoholic beverage. The weapon is not to be left in the vehicle while the officer is on duty either in the field or the office.

E. Training

Probation Officers of the Middle District of North Carolina shall not be granted permission to carry a firearm in the performance of their duties unless they have completed the approved District Firearms Training Program and have qualified thereunder to carry a firearm. Requalifications will be required on a six months basis after initial qualification. Probation Officers who fail to qualify or attend a make up required training session will be prohibited from carrying a firearm until re-certified or qualified. Probation Officers wishing to qualify shall be required to read and sign copies of the District Firearms Policy. The original will be included in the Probation Officer's file. In the discretion of the Chief Probation Officer, permission to carry a weapon may be withdrawn from any Probation Officer at any time.

F. Report


At any time a firearm is discharged or displayed in the course of an officer's official duty, other than for training purposes, a report must be filed with the CUSPO within 24 hours of the incident. Also, at any time a firearm is lost or stolen, the same reporting procedure must be followed. Copies of the report will be submitted to the Chief Judge and the Probation Division, Administrative Office of U. S. Courts.

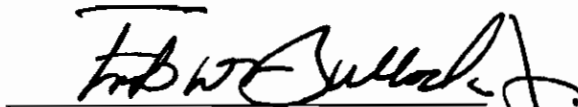
G. Understanding of Policy

All probation officers shall understand the District Firearms Policy and shall furnish a signed copy to the CUSPO acknowledging this understanding.

IT IS FURTHER ORDERED that this Order shall remain in effect until revoked or modified by further order of this Court.


This the 30th day of July, 1991.


RICHARD C. ERWIN, Chief Judge
United States District Court


FRANK W. BULLOCK, JR. Judge
United States District Court


N. CARLTON TILLEY, JR., Judge
United States District Court

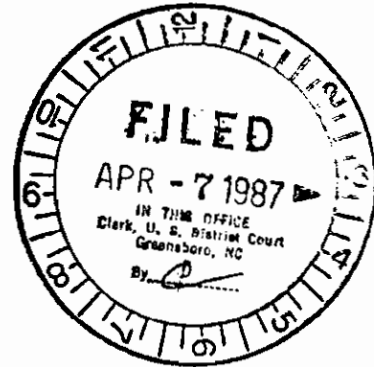

EUGENE A. GORDON, Senior Judge
United States District Court


HIRAM H. WARD, Senior Judge
United States District Court

I HAVE READ AND CLEARLY UNDERSTAND
STANDING ORDER NUMBER 17.

U. S. PROBATION OFFICER (Date)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



DISCRETIONARY CARRYING OF :
FIREARMS BY PROBATION OFFICERS :

STANDING ORDER
NUMBER 17

The carrying of a firearm by U.S. Probation Officers is governed by the criteria promulgated in the reports of the proceedings of the Judicial Conference of the United States held in Washington, D.C. March 6 and 7, 1975, and September 25 and 26, 1975. It is recognized that probation officers are subject to serious risk of physical harm in the performance of their official duties. In the Middle District of North Carolina, probation officers have been the recipients of threats, both real and implied.

IT IS, THEREFORE, ORDERED that probation officers in the Middle District of North Carolina be authorized to carry a firearm in connection with their official duties by complying with the policy of the Judicial Conference of the United States (attached) and with additional policy of this district as follows:

A. STANDARDS FOR AUTHORIZATION

Before requesting permission to carry a firearm, the U.S. U.S. Probation Officer must determine that a visit in a particular case may reasonably place his life in jeopardy. Indicators of this would be cases with known records of assaultive behavior; clients who have directly or indirectly

indirectly threatened the officer; clients who are unknown to the officer but who are resistive to treatment programs or conditions imposed; clients who reside in a high crime area; investigations in high crime incidence neighborhoods; investigations in isolated locations where there is an unknown factor; etc.

B. PROCEDURES FOR OBTAINING AUTHORITY TO CARRY A FIREARM

A written request will be submitted first to the SUSPO who will confer with the USPO. If the SUSPO approves, he will initial the request and forward to the CUSPO.

If approved by the CUSPO and SUSPO, the request will be forwarded to the Chief Judge. If the Chief Judge does not respond within 48 hours after receipt, the officer may carry the weapon for that visit and for future visits with the client until there is a change in the situation.

C. WEAPONS (Handgun Only)

All weapons must be purchased by the USPO and must be compatible with .38 caliber ammunition. No weapon may be carried by a USPO on duty unless all requirements as set forth in this directive and the approved policy have been met. Ammunition must be standard issue.

D. SECURITY

The weapon must be secured under lock and key in a place designated at all times when not in the physical custody of the officer. At no time will the weapon be unattended or open to public display. When in use, the weapon will be carried in such a way so that it will not be visible

to the public. It shall never be carried after USPO has consumed any alcoholic beverage.

E. TRAINING

Before carrying a weapon, each officer must successfully complete the district's prescribed course of training. The District's standards of training shall conform with standards promulgated by the Administrative Office, tailored specifically to the needs of probation and pretrial services officers. Any officer who does not successfully qualify or re-qualify will not be permitted to carry a firearm.

F. REPORT

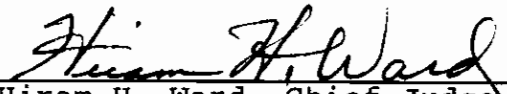
At any time a firearm is displayed in the course of an officer's official duty, other than for training purposes, a report must be filed with the CUSPO within 24 hours of the incident. Copies of the report will be submitted to the Chief Judge and the Probation Division, Administrative Office of the United States Courts.

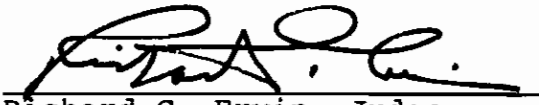
G. UNDERSTANDING OF POLICY

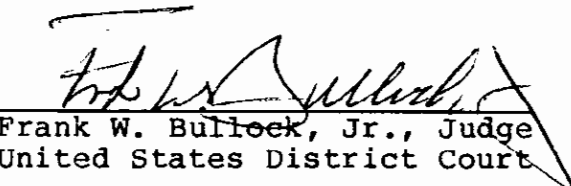
All probation officers shall understand the district firearms policy and shall furnish a signed copy to the CUSPO acknowledging this understanding.

IT IS FURTHER ORDERED that this Order shall remain in effect until revoked or modified by further order of this Court.

This the 7 day of April, 1987.


Hiram H. Ward, Chief Judge
United States District Court


Richard C. Erwin, Judge
United States District Court


Frank W. Bullock, Jr., Judge
United States District Court


Eugene A. Gordon, Sr., Judge
United States District Court

JUDICIAL CONFERENCE
POLICY ON THE CARRYING
OF FIREARMS BY
U. S. PROBATION OFFICERS

The Probation Committee proposed guidelines in lieu of legislation at the March 1975 meeting. The preamble to those guidelines succinctly states the Judicial Conference position that is still in effect today:

It is the policy of the Judicial Conference of the United States that probation officers should not be permitted to carry firearms in the performance of their official duties unless an assignment, in the judgment of the chief probation officer or the district judge, subjects a probation officer to serious risk of physical harm and the services of a law enforcement officer in accompanying the probation officer would not be appropriate in the opinion of the chief probation officer. Such probation officer may be permitted to carry a firearm under these conditions:

I. A. The law of the state permits the carrying of a firearm by a probation officer.

B. The probation officer has obtained all necessary licenses or permits required for the carrying of firearms.

C. The probation officer has presented to the chief probation officer sufficient reasons in writing why the carrying of a firearm is reasonably necessary:

(1) in the performance of his duties generally, or

(2) in the performance of duty in a specified assignment.

D. The permission of the chief probation officer has been granted in writing.

E. The chief judge of the court has been given actual notice in writing of the permission granted to carry a firearm and he has not objected within 48 hours of the notice.

II. No probation officer shall be granted permission to carry a firearm in the performance of his duties unless he has completed an approved firearms training program and has qualified thereunder to carry a firearm.

III. A probation officer who has been granted permission to carry a firearm in the performance of his duties shall use the same only in the exercise of his rights of self-defense in accordance with law.

IV. A probation officer who discharges a firearm while in the performance of his duties shall file a report in writing with the chief probation officer within twenty-four (24) hours describing in detail the occasion on which, and the reason, he discharged the firearm.

V. The chief probation officer shall forthwith send copies of the report required under paragraph IV to the chief judge and the Administrative Office.

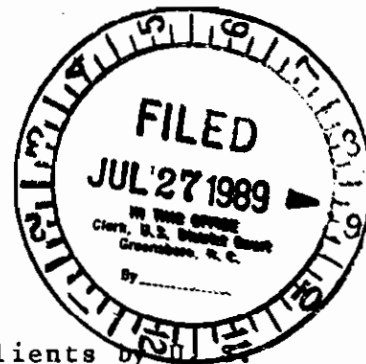
The Judicial Conference also approved expansion of these guidelines at the September 1975 meeting to include pretrial services officers.

(Source: David N. Adair, Jr. Assistant General Counsel, in a memorandum dated July 8, 1986, to James E. Macklin, Jr., Deputy Director; and 1975 Report of the Proceedings of the Judicial Conference of the United States)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

IN RE: U. S. PROBATION
OFFICER'S SUPERVISION
OF HIV CLIENTS

STANDING ORDER
NUMBER 23



In order to provide for the effective supervision of clients by Probation Officers and specifically to provide guidance to probation officers who are supervising individuals on probation, bond supervision, parole, military parole, and supervised release, who are known to have tested positive for antibody exposure to the Human Immunodeficiency Virus (HIV) or who have developed symptomatic HIV disease, including Acquired Immune Deficiency Syndrome (AIDS), IT IS ORDERED THAT:

The Probation Officer shall, if possible, first attempt to have the supervisee give informed written consent authorizing the release of information about HIV infection to the U. S. Marshal, residential facilities, halfway houses, and jails. In the absence of such written consent, this information shall be disclosed to the U. S. Marshal when a violator's warrant is issued and to the health care provider and/or supervisor of the halfway house or jail facility when the supervisee is placed in their custody.

This the 27th day of July, 1989.

A handwritten signature in dark ink, appearing to read 'Richard C. Erwin'.

Richard C. Erwin
Chief Judge
United States District Court

A handwritten signature in dark ink, appearing to read 'Frank W. Bullock, Jr.'.

Frank W. Bullock, Jr.
Judge
United States District Court

A handwritten signature in dark ink, appearing to read 'N. Carlton Tilley, Jr.'.

N. Carlton Tilley, Jr.
Judge
United States District Court

A handwritten signature in dark ink, appearing to read 'Eugene A. Gordon'.

Eugene A. Gordon
Senior Judge
United States District Court

A handwritten signature in dark ink, appearing to read 'Hiram H. Ward'.

Hiram H. Ward
Senior Judge
United States District Court

All District
Judges and
Pretrial
Services
Officers

States have made it a crime to knowingly spread AIDS and Congress is considering making this a Federal crime.

To date the Committee is not aware of any jurisdiction which has imposed an affirmative duty on a probation officer to make third-party disclosures. In fact, some jurisdictions whose precedent suggests that such a duty might be imposed have actually prohibited non-consensual third-party disclosure. See, e.g., Tarasoff, 551 P.2d at 334 and Cal. Health and Safety Code § 199.21. But, see also Cal. Health and Safety Code § 199.25, which permits a physician to make a non-consensual disclosure to the spouse of a patient with HIV infection. In addition, some States which impose criminal liability for knowingly spreading HIV infection also impose civil and criminal penalties for making a non-consensual disclosure that an individual has HIV or AIDS. See Fla. Stat. § 384.24 and § 384.29, Idaho Code § 39-601 and § 39-606.

In summary, it seems impossible to devise a uniform procedure regarding third-party warnings that respects State public health laws because of the variations in State laws. For the reasons articulated in this comment, the Committee believes that on balance a policy of limited disclosure is advisable. However, as the law in this area evolves, this provision may need to be reconsidered. Moreover, the importance of assessing and following State law in this area cannot be stressed enough.

5. In all cases, the officer should first attempt to have the supervisee give informed, written consent authorizing the release of information about HIV infection to the U.S. Marshal, residential facilities, halfway houses and jails. In the absence of such written consent, this information should be disclosed to the U.S. Marshal when a violator's warrant is issued and to the health care provider and/or supervisor of the halfway house or jail facility when the supervisee is placed in their custody.

COMMENT

This provision is consistent with § 2.38-04(h) of the Parole Commission's instructions and reflects the concern that arresting officers and custodial officers should be aware of the potential risk of exposure to HIV infection. It also assists the custodial officers in responding to any medical needs of individuals in their custody.

6. When information concerning an individual's HIV antibody test result or information concerning a diagnosis of HIV infection is disclosed to the officer by a third party or by the client, the officer should seek the written, informed consent of the client before

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF NORTH CAROLINA

PROBATION OFFICE

WALTER BLACK, JR.
CHIEF PROBATION OFFICER

P.O. BOX 3327
GREENSBORO, N.C. 27402
(919) 333-5341

REPLY TO:

- () P.O. BOX 3327
GREENSBORO, N.C. 27402
- () P.O. BOX 106
DURHAM, N.C. 27702
- () P.O. BOX 1476
ROCKINGHAM, N.C. 28379
- () SUITE 140, YADKIN PLACE
202 N. LEE STREET
SALISBURY, N.C. 28144
- () SUITE 500 FEDERAL BUILDING
251 N. MAIN STREET
WINSTON-SALEM, N.C. 27101

December 20, 1990

The Honorable Richard C. Erwin, Chief Judge
United States District Court
251 North Main Street, Suite 223-A
Winston-Salem, North Carolina 27101

Dear Judge Erwin:

After careful deliberation and much consternation, we are presenting the attached documents as an interim plan for probation/supervised release supervision as a primary method to consider the recent U. S. Sentencing Commission policy statements. Please observe that the Commission issued only policy statements and as such they are not law and for the Court to be compliant, only judicial consideration of the policy statements is necessary before sentencing in a revocation matter.

Although there are small differences in probation and supervised release conditions, the Commission elected to develop a single set of policy statements for both. The Commission views the policy statements as the first step in an evolving process. Also, these policy statements should allow for greater flexibility in their initial application.

In our attempt to maintain a defined posture in the milieu of these ongoing changes, we have attempted to postulate a set of minimum standards to guide us in this evolutionary process. These standards are to help us absorb the impact of the policy statements and to some degree control our demands on the Court.

It is our feeling that these standards provide an encompassing aspect of our daily supervision needs. Presently, we use these standards in assessing our probation and parole clients and the policy statements are no more than an extension of our evaluative tools.

In the recently published policy statements, the Sentencing Commission directs that alleged Class A and B violators be promptly reported to the Court. Grade C violators are to be promptly reported unless the probation officer determines (1) that such violation is minor and not a part of a continuing pattern of violations and (2) non reporting will not present an undue risk to an individual or the public.

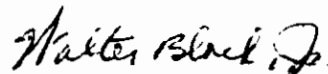
The Honorable Richard C. Erwin, Chief Judge
Page 2
December 20, 1990

The documents we are presenting to you are intended to give us a local policy in which we can operate. Hopefully, the Chief Probation Officer will reserve the responsibility of forwarding violations to the Court. The U. S. Probation Office will closely adhere to the criteria we are now presenting. The local criteria when combined with the Commission's policy recommendations will allow for the control of violation matters being constantly thrust upon the Court.

The proposed Standing Order is offered only as an interim measure to undergird our local criteria. Likewise, at the time specific guidelines are subsequently rendered by the Commission, we might only need to amend or update our Standing Order with only minor interruption.

Thanks for considering this proposal and should you need more details or information, please do not hesitate to contact us. We look forward to discussing this matter with you if necessary.

Sincerely,



WALTER BLACK, JR.

Chief U. S. Probation Officer

WB/br

Attachments:

1. Proposed Standing Order (Draft)
2. Proposed Minimum Requirements
3. Format for Informal Violation Report

MIDDLE DISTRICT C NORTH CAROLINA: Policy/ Minimum requirements for reporting violations

GRADE A VIOLATIONS - Mandatory report required:

Conduct constituting federal, state or local offense punishable by a term of imprisonment exceeding twenty (20) years.

Conduct constituting a federal, state or local offense punishable by a term of imprisonment exceeding one (1) year that (a) is a crime of violence, (b) is a controlled substance, or (c) involves possession of a firearm or destructive device described in 26USC5845(a).

GRADE B VIOLATIONS - Mandatory report required

Conduct constituting any other federal, state or local offense punishable by a term of imprisonment exceeding one year.

GRADE C VIOLATIONS - Mandatory report required:

1. Failure to report in person within ten (10) working days of release from custody and whereabouts are unknown.
2. Arrest for any law violation (punishable by imprisonment of one (1) year or less) if conduct involved violence, firearms, controlled substances or DWI/DUI.
3. Absconder from supervision for more than 30 days.
4. Confirmed positive urinalysis.
5. Travel out of the District w/o authorization and failing to return within fifteen (15) working days.
6. Restitution or fine in default.
7. Association with person(s) engaged in criminal activity after being previously warned by PO.
8. Entering into an agreement to act as an informer or a Special Agent of any law enforcement agency w/o permission of the Court.
9. Failure to cooperatively participate in required CCC program, or comply with court ordered sanctions of Home Detention (to include electronic monitoring), or failure to perform court ordered community service.

GRADE C VIOLATIONS - Mandatory report required if two (2) willful violations occur within a six (6) month period:

GRADE C VIOLATION. (continued)

1. Failure to comply with requirements of court ordered substance abuse treatment program.
2. Failure to comply with requirements of court ordered mental health treatment program.
3. Failure to comply with any other Special Condition denoting risk control and/or correctional treatment.
4. Any violation of the law constituting a federal, state or local offense punishable by a term of imprisonment of 1 year or less (other than those offenses involving violence, firearms, possession of controlled substance or DWI/DUI).
5. Association with a felon w/o permission of PO, and after being previously warned.
6. Leaving the District w/o permission of PO.
7. Failure to submit a urine specimen upon demand.

GRADE C VIOLATIONS - Mandatory report required if three (3) willful violations within twelve (12) month period:

1. Failure to submit a truthful and complete written report within first ten (10) days of month.
2. Failure to report as directed.
3. Failure to notify PO within 72 hours of being arrested or questioned by a law enforcement officer.
4. Failure to notify PO within 72 hours of any change in residence or employment.
5. Failure to work at, and /or maintain suitable employment.
6. Failure to support legal dependents or manage other family responsibilities.
7. Excessive use of alcohol.

(a combination of three (3) or more of the above violations occurring within a 12 month period will mandate a report).

wdjr

VIOLATION REPORT

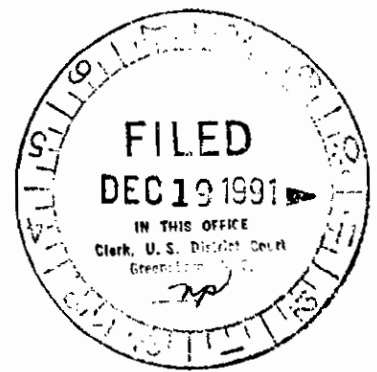
Name: _____

Judge: _____ Docket #: _____

Date Received: _____ Expiration Date: _____

NATURE OF VIOLATION(S) AND OFFICER'S EVIDENCE:**PREVIOUS VIOLATIONS REPORTED TO COURT:**☐ NONEViolationDate Reported**ACTION RECOMMENDED BY OFFICER:**DECISION OF JUDGE: ☐ Agree with Officer's Recommendation☐ Take Following Action:_____
USPO DATE_____
SUSPO DATE

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA



ADMISSION OF LAW
CLERKS

STANDING ORDER NO. 26

Upon the admission of a law clerk of a judge of this court to practice before this court, the fee for admission to practice is waived.

This 19th day of December, 1991.

Richard C. Erwin
Richard C. Erwin, Chief Judge
U. S. District Court

Frank W. Bullock, Jr.
Frank W. Bullock, Jr., Judge
U. S. District Court

N. Carlton Tilley, Jr.
N. Carlton Tilley, Jr., Judge
U. S. District Court

William L. Osteen
William L. Osteen, Sr., Judge
U. S. District Court

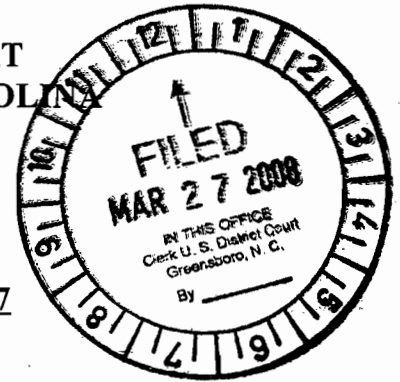
Eugene A. Gordon
Eugene A. Gordon, Senior Judge
U. S. District Court

Hiram H. Ward
Hiram H. Ward, Senior Judge
U. S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

RE: TRANSCRIPT RATES

)
) AMENDED
) STANDING ORDER NO. 27
)



Transcripts of court proceedings may be charged at the maximum rates allowable by the Judicial Conference of the United States in accordance with the effective dates established by the Judicial Conference. The Clerk of Court shall maintain the current maximum rates on the Court's website. Transcripts ordered prior to the effective date of the current rate schedule shall be charged at the maximum rate allowable by the Judicial Conference that was in effect at the time the transcript was ordered.

This the 26 day of March, 2008.

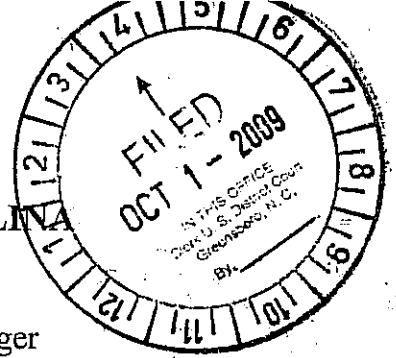
James A. Beaty, Jr., Chief Judge
United States District Court

N. Carlton Tilley, Jr., Judge
United States District Court

William L. Osteen, Jr., Judge
United States District Court

Thomas D. Schroeder, Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Standing Order 7)	
Standing Order 12)	Standing Orders No Longer
Standing Order 28)	Considered Necessary
Standing Order 29)	

IT APPEARING THAT the following standing orders are no longer necessary due to the current policy, procedures and practices in the Middle District of North Carolina:

Standing Order 7 Appointment of a Person to Serve Civil Process

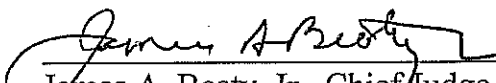
Standing Order 12 In the Matter of Designating the Bankruptcy Clerk as Accountable Officer for Handling Bankruptcy Registry Funds, Costs and Other Matters

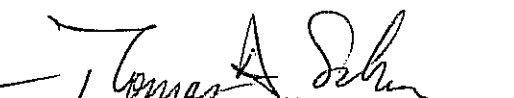
Standing Order 28 Entry of Judgments and Injunctions when Integrated Case Management System (ICMS) is Down

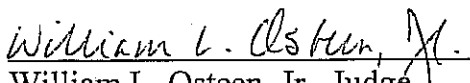
Standing Order 29 Designation of Non-Smoking Area in Courthouse

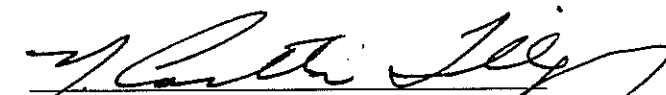
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing orders are hereby revoked, effective immediately.

This the 1st day of October, 2009.


James A. Beaty, Jr., Chief Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court


William L. Osteen, Jr., Judge
United States District Court


N. Carlton Tilley, Jr., Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



RE: MODIFICATION OF CIVIL) AMENDED
CASE ASSIGNMENT PLAN) STANDING ORDER NO. 30
)

In order to alleviate the backlog of civil cases, which has been created by the extremely heavy and time-consuming criminal docket of this court, and attain the objective of the Civil Justice Reform Act of 1990 of reducing delays in the trial of civil cases, it is necessary to modify the Civil Case Assignment Plan of this district to more effectively benefit from the talents and abilities of the magistrate judges of this court in the disposition and trial of civil cases. Before making this modification, the district judges have found that Magistrate Judges Russell A. Eliason, P. Trevor Sharp and Wallace W. Dixon are experienced judicial officers who for over twenty years have regularly handled civil cases from discovery through dispositive motions and trial. They are fully qualified to rule upon and try any civil case arising before this court.

Accordingly:

1. Twenty-Four out of each fifty-two, excluding (1) prisoner cases arising under 28 U.S.C. § 2254, 28 U.S.C. § 2255, and 42 U.S.C. § 1983, (2) non-prisoner pro se cases; and (3) appeals from the Bankruptcy Court, will be randomly assigned to the magistrate judges to conduct all proceedings, including the ultimate trial upon consent. Each magistrate judge will receive an equal distribution. A district judge will be paired

with each case assigned to a magistrate judge at the time the case is initially assigned.

The pairing of district judges in these cases will be rotated so that the same judge is not always paired with the same magistrate judge. The name of the district judge paired on a particular case will not be disclosed initially by the clerk's office.

2. The magistrate judge to whom the case is assigned will rule or make recommendations upon all motions, both non-dispositive and dispositive. If either party objects to a decision of the magistrate judge on a motion prior to trial in a case wherein consent has not been given, the objection will be ruled upon by the district judge paired with the magistrate judge. Subsequent motions in the case will be referred to the magistrate judge for ruling or recommendation.

3. When the issues are joined in these cases, the parties shall be given notice of this administrative assignment. The notice and forms sent to the parties shall inform them of their opportunity to consent to the trial jurisdiction of the magistrate judge and their duty to communicate their decision to the Clerk. The notice and forms shall be substantially in the form of the attachments to this Order.

4. The Clerk shall hold confidential the decisions of the parties on the issue of consent and shall not inform any district judge or magistrate judge of the parties' responses unless all parties consent, by affirmative response in the form of written consent.

5. If all parties give written consent to the trial jurisdiction of a magistrate judge, the Clerk shall prepare for the Chief Judge an Order of Reference pursuant to 28 U.S.C. § 636(c). On entry of such an order, the Clerk shall file the responses that have been

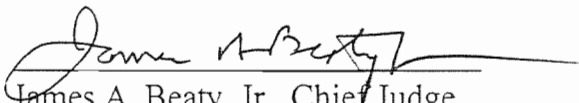
submitted by the parties.


6. Appeal of a judgment entered by a magistrate judge will be to the Court of Appeals for the Fourth Circuit.

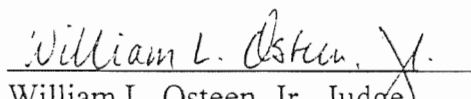
7. This rule shall be interpreted and enforced so as to protect the voluntariness of the parties' consent. No official of the court shall take any action that implies that the parties are not free to withhold consent without adverse substantive consequences.


This order will be effective February 4, 2008.

This the 30th day of January, 2008.

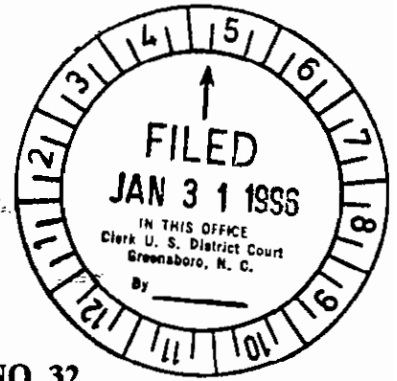

James A. Beaty, Jr., Chief Judge
United States District Court


N. Carlton Tilley, Jr., Judge
United States District Court


William L. Osteen, Jr., Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

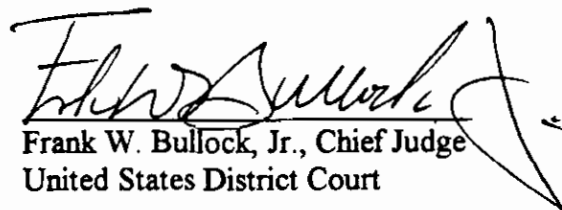


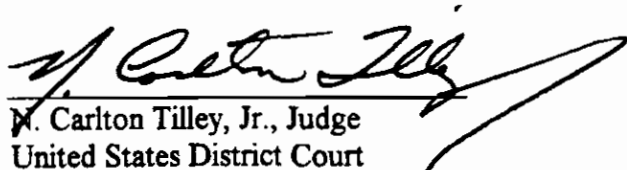
RE: CRIMINAL
COVER SHEET

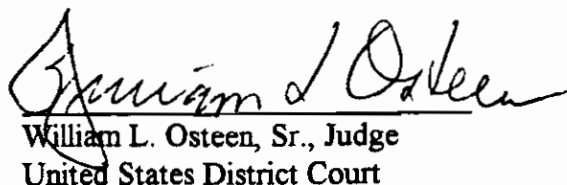
)
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) STANDING ORDER NO. 32
)
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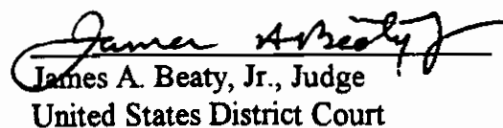
To assist the court in better managing its criminal cases, IT IS ORDERED that each time a criminal case is filed by the U.S. Attorney that the filings shall be accompanied by a filled in Criminal Case Cover Sheet, MIDDLE DISTRICT OF NORTH CAROLINA-CR-1 (Jan 96), a copy of which is attached hereto.

This the 31st day of January, 1996.


Frank W. Bullock, Jr., Chief Judge
United States District Court


M. Carlton Tilley, Jr., Judge
United States District Court


William L. Osteen, Sr., Judge
United States District Court


James A. Beaty, Jr., Judge
United States District Court

Criminal Case Cover Sheet**U.S. District Court
Middle District North Carolina****Place of Offense:**

County _____

Related Case Information:Superseding Indictment _____ Docket Number _____
Same Defendant _____ New Defendant _____
Magistrate Judge Case Number _____
Search Warrant Case No. _____
R 20/ R 40 from District of _____**Defendant Information:**

Juvenile _____ Yes _____ No _____

Defendant Name _____

Alias Name _____

Address _____

Birthdate _____ SS # _____ Sex _____ Race _____ Nationality _____

U.S. Attorney Information:

AUSA _____ Bar # _____

Interpreter: ☐ No ☐ Yes List language and/or dialect: _____**Location Status:**

Arrest Date _____

Already in Federal Custody as of _____
Already in State Custody
On Pretrial ReleaseTotal # of Counts: _____ ☐ Petty ☐ Misdemeanor ☐ Felony

<u>Index Key/Code</u> (Clerk's Office Use Only)	<u>Citation and Description of Offense Charged</u>	<u>Count(s)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(May be continued on second sheet)

Signature of AUSA: _____

District Court Case Number (To be filled in by deputy clerk): _____

U.S.C. CITATIONS (continued)

Index Key/Code
(Clerk's Office Use Only)

Citation and Description of Offense Charged

Count(s)

[illegible]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

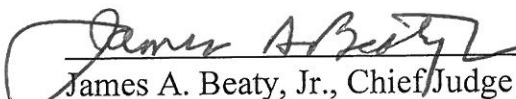


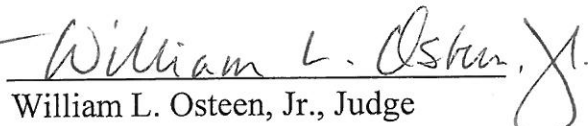
EMPLOYMENT DISPUTE
RESOLUTION PLAN


AMENDED
STANDING ORDER 33


For good cause appearing to the Court, this Court adopts, for all Units of this Court, the attached Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan dated August 2010.

This the 11th day of August, 2010.


James A. Beaty, Jr., Chief Judge
United States District Court


William L. Osteen, Jr., Judge
United States District Court


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United States District Court


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United States District Court

**Consolidated Equal
Employment Opportunity**

and

Employment Dispute Resolution Plan

of the

**United States District Court
for the Middle District of North Carolina**

August 2010

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CHAPTER 1. GENERAL PROVISIONS

§ 1 Preamble

This Plan shall be known as the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States District Court for the Middle District of North Carolina (“Plan”). This Plan supersedes the Court’s Employment Dispute Resolution Plan, promulgated in Standing Order Number 33, dated August 18, 2003.

A copy of this Plan will be posted on the Court’s internal and external websites. A copy of this Plan and any subsequent modifications will be filed with the Administrative Office, and the Court shall annually submit a report on the implementation of its plan to the Administrative Office for inclusion in the Director’s Annual Report to the Judicial Conference.

Policies adopted by individual Court units in this District pertaining to adverse action or general grievance proceedings that do not invoke the rights and protections afforded under the Plan are not affected by the Plan. Further, local policies relating to rights enumerated under the Plan that are not inconsistent with the rights and procedures established herein will not be affected by the Plan.

This Plan is not intended to duplicate the protections provided for the resolution of complaints of judicial officer misconduct or disability under 28 U.S.C. §§ 351, et seq. and otherwise is intended to be the exclusive remedy of the employee relating to rights enumerated under the Plan.

§ 2 Scope of Coverage

This Plan applies to:

- Article III judges of the United States District Court for the Middle District of North Carolina
- Bankruptcy Judges of the Middle District of North Carolina
- Magistrate Judges of the Middle District of North Carolina
- Chambers staff of judicial officers

The unit executive and staff of the following Court units:

- Clerk of the District Court
- Clerk of the Bankruptcy Court
- Probation and Pretrial Services Office

§ 3 Definitions

For purposes of this Plan:

- A. The term “claim” means the filing of a request for counseling as set forth in Chapter IX, which may be further pursued by the filing of a request for mediation and a request for hearing.
- B. The term "employee" includes all individuals listed in § 2 of this Chapter, as well as applicants for employment and former employees, except the following individuals are *specifically excluded and are not covered* under this Plan: interns or externs providing gratuitous service, applicants for bankruptcy judge or magistrate judge positions, private attorneys who apply to represent indigent defendants under the Criminal Justice Act, criminal defense investigators not employed by federal public defenders, volunteer counselors or mediators, or other individuals who are not employees of an “employing office” as that term is defined below.
- C. The term “employing office” includes all offices of the United States District Court for the Middle District of North Carolina, including the Offices of the Clerk of the District Court, Clerk of the Bankruptcy Court and Probation and Pretrial Services Office. The Court is the employing office of a Judge’s chambers staff.
- D. The term “judicial officer” means a District Judge (including Senior District Judge) of the United States District Court for the Middle District of North Carolina appointed pursuant to Article III of the United States Constitution; a Bankruptcy Judge of the Middle District of North Carolina, or a Magistrate Judge of the United States District Court of the Middle District of North Carolina.
- E. The term “court” or “Court” refers to the United States District Court for the Middle District of North Carolina.

CHAPTER II. EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-DISCRIMINATION RIGHTS

§ 1 General

Discrimination against employees based on race, color, religion, sex (including

pregnancy and sexual harassment), national origin, age (at least 40 years of age at the time of the alleged discrimination), and disability is prohibited. Harassment against an employee based upon any of these protected categories or retaliation for engaging in any protected activity is prohibited. All of the above constitute “wrongful conduct.” The rights and protections of Sections I through VII shall also apply to employees.

§ 2 Definition

For purposes of this Plan, the term "disability" means:

- A. a physical or mental impairment that substantially limits one or more of the major life activities of an employee,
- B. a record of such an impairment, or
- C. being regarded as having such an impairment. *See 42 U.S.C. § 12102(2).*

§ 3 Special Provision for Probation and Pretrial Services Officers

The age discrimination provision of Section I of this Chapter shall not apply to the initial hiring or mandatory separation of probation and pretrial services officers and officer assistants. *See Report of the Proceedings of the Judicial Conference of the United States (March 1991), pp. 16-17.* Additionally, probation and pretrial services officers must meet all fitness for duty standards, and compliance with such standards does not, in and of itself, constitute discrimination on the basis of disability.

§ 4 Organization

A. Unit Executives

The Clerk of the District Court, the Clerk of the Bankruptcy Court and the Chief Probation Officer must ensure that all vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and all hiring decisions are based solely on job-related factors. They should make reasonable efforts to see that the skills, abilities, and potential of each employee are identified and developed and that all employees are given equal opportunities for promotions by being offered, when the work of the Court permits and within the limits of available resources, cross-training, reassignments, job restructuring, special assignments, and outside job-related training.

B. Judges, Unit Executives, Court Managers and Supervisors

Judges, unit executives, court managers, and supervisors must apply equal employment opportunity practices and policies in their work units. This includes giving each employee a fair and equal opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for personnel actions and awards recognizing such achievements. As resources permit, it also requires providing training programs which enable employees to develop their job skills fully.

§ 5 Personnel Practices

A. Recruitment

Each Court unit will seek qualified applicants who reflect the make-up of all such persons in the relevant labor market. Each unit will publicize all vacancies.

B. Hiring

Each Court unit will make its hiring decisions strictly upon an evaluation of a person's qualifications and ability to perform the duties of the position satisfactorily. Hiring decisions shall be made without regard to race, color, religion, sex, national origin, age, or disability.

C. Promotion

Each Court unit will promote employees according to their experience, training and demonstrated ability to perform duties of a higher level. Promotion decisions shall be made without regard to race, color, religion, sex, national origin, age, or disability.

D. Advancement

Each Court unit will seek insofar as reasonably practicable to improve the skills and abilities of its employees through cross-training, job restructuring, assignments, details, and outside training.

CHAPTER III. FAMILY AND MEDICAL LEAVE RIGHTS

§ 1 General

Title II of the Family and Medical Leave Act of 1993, 5 U.S.C. §§ 6381 et. Seq., applies to Court employees in the manner prescribed in Volume 12, Chapter 9, Section 920.20.35 the *Guide to Judiciary Policy*.

CHAPTER IV. WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS

§ 1 General

No “employing office closing” or “mass layoff” (as defined in Section 2 of this Chapter) may occur until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to employees who will be affected. This provision shall not apply to an employing office closing or mass layoff that results from the absence of appropriated funds.

§ 2 Definitions

A. The term “employing office closing” means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

B. The term “mass layoff” means a reduction in force which:

1. is not the result of an employing office closing; and
2. results in an employment loss at the single site of employment during any 30-day period for
 - a. (1) at least 33 percent of the employees (excluding any part-time employees); and
 - (2) at least 50 employees (excluding any part-time employees); or
 - b. at least 500 employees (excluding any part-time employees).

See 29 U.S.C. § 2101.

CHAPTER V. EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

§ 1 General

An employing office shall not discriminate against an eligible employee or deny an eligible employee reemployment rights or benefits under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 *et seq.*

CHAPTER VI. OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS

§ 1 General

Each employing office shall provide to its employees a place of employment which is free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Complaints which seek a remedy that is exclusively within the jurisdiction of the General Services Administration (“GSA”) or the United States Postal Service (“USPS”) to provide are not cognizable under this Plan; such request should be filed directly with GSA or the USPS as appropriate.

§ 2 Court Program Requirements

The Court will implement a program to achieve the protections set forth in § 1 of this Chapter.

CHAPTER VII. POLYGRAPH TESTS

§ 1 General

Unless required for access to classified information, or otherwise required by law, no employee may be required to take a polygraph test.

CHAPTER VIII. REPORTS OF WRONGFUL CONDUCT

A report of wrongful conduct is not the same as initiating or filing a claim under this Plan; thus, employees who wish to file an EDR claim relating to any alleged wrongful conduct as defined in Chapter II, §1 must follow the procedures set forth in Chapter IX of this Plan.

Judges and employees are encouraged to report wrongful conduct to the Court's EDR Coordinator, the Chief District Judge, unit executive, human resources manager, or their supervisor as soon as possible, before it becomes severe or pervasive. Retaliation against any employee making a report of wrongful conduct is prohibited. The person receiving such a report has the responsibility to notify the EDR Coordinator as soon as possible.

The EDR Coordinator shall promptly inform the Chief District Judge and unit executive of any report. The Chief District Judge and/or unit executive shall ensure that the allegations in the report are appropriately investigated, either by the human resources manager or other person.

All individuals involved in the investigation shall protect the confidentiality of the allegations of wrongful conduct to the extent possible. Information and records about the allegations shall be shared on a need-to-know basis.

Employees found by the Chief District Judge and/or unit executive to have engaged in wrongful conduct, as defined in this Plan, may be subject to disciplinary action.

CHAPTER IX. DISPUTE RESOLUTION PROCEDURES

§ 1 General Procedures for Consideration of Alleged Violations

An employee who claims a denial of the rights granted under Chapters II through VII of this Plan shall seek resolution of such claims through the procedures of this Chapter. Generally, the procedural process consists of:

- A. Counseling and mediation;
- B. Hearing before the Chief District Judge of the United States District Court for the Middle District of North Carolina (or a designated judicial officer); and

C. Review of the hearing decision under procedures established by the Judicial Council of the Fourth Circuit.

§ 2 Alleged Violation by Employee

Before invoking a request for counseling an employee (to the extent feasible) is encouraged to bring his or her concerns to his or her supervisor or unit executive, unless the supervisor or unit executive is the alleged violator. In such a situation, the employee is encouraged to discuss the matter with the EDR Coordinator. An employee alleging that any of the rights granted under this Plan have been violated, and who seeks relief under this Plan, must file a request for counseling with the Court's EDR Coordinator in accordance with Section 8 of this Chapter.

§ 3 Alleged Violation by Judge

Any employee alleging that a judge violated any rights granted under this Plan may file an EDR claim in accordance with this Plan. In such an instance, however, all the claims procedures of this Chapter shall be performed by the Fourth Circuit Judicial Council ("Judicial Council"), either by members of the Judicial Council directly or by persons designated to act on its behalf, which may include the Chief Circuit Judge. If a judge becomes the subject of both an EDR claim and a judicial misconduct complaint under the Judicial Conduct and Disability Act, §§ 351-364, the Judicial Council or its designee, which may include the Chief Circuit Judge, will craft a procedure for determining any common issues of fact and processing both complaints, subject to all requirements of the Act, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and, as practicable, this Plan. In so doing, the Judicial Council or its designee, which may include the Chief Circuit Judge, may determine that all or part of the EDR claim must be abated until action is taken on the judicial misconduct complaint.

§ 4 Confidentiality

The Court or employing office shall protect the confidentiality of allegations filed under this Plan to the extent possible. However, information about allegations filed under this Plan shall be shared on a need-to-know basis. Records relating to violations under this Plan shall be kept confidential on the same basis.

§ 5 General Provisions and Protections

A. Prohibition Against Retaliation

Claimants under this Plan have the right to be free from retaliation because

of the filing of a claim pursuant to this Plan. Likewise, any person who participates in the filing or processing of a claim, such as an EDR Coordinator, mediator, witness, representative, or co-worker, is also entitled to freedom from retaliation.

B. Right to Representation

Every individual invoking the dispute resolution procedures of this Plan has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. A Court employee may accept the responsibilities of representation if it will not unduly interfere with his or her Court duties or constitute a conflict of interest, as determined by the representative's appointing officer.

C. Case Preparation

To the extent feasible, every individual invoking the dispute resolution procedures of this Plan may use a reasonable amount of official time to prepare his or her case, so long as it does not unduly interfere with the performance of his or her Court duties.

D. Determining Time Periods

The word "days" in all filing and other time periods specified in this Consolidated Plan shall mean calendar days, except that if the deadline date falls on a Saturday, Sunday or holiday, the deadline shall be extended to the following Court business day.

E. Extensions of Time

The Chief District Judge of the Court, or other presiding judicial officer, may extend any of the deadlines set forth in this Chapter for good cause. The time periods for counseling and mediation may also be extended as provided in §§ 4 and 5 of this Chapter.

F. Dismissal of Claim

On his or her own initiative or at the request of any party, the Chief District Judge of the Court or presiding judicial officer may at any time in the proceedings, dismiss a claim on the grounds that it does not invoke violations of the rights or protections granted under this Plan, is untimely, is unduly repetitive of a previous claim, adverse action, or grievance, is frivolous, or fails to state a claim upon

which relief may be granted.

G. Records

At the conclusion of formal and informal proceedings under this Plan, all papers, files, and reports will be filed with the Court's EDR Coordinator. No papers, files or reports relating to a dispute will be filed in any employee's personnel folder, except as necessary to implement an official personnel action.

H. Election of Remedies

If an employee files an appeal of an adverse action or grievance in addition to a claim under this Plan concerning the same or substantially the same subject matter, the employee must elect either (a) the Plan or (b) the grievance/adverse action appeal procedures under which the claim is to be processed. An employee may not utilize both (a) and (b). Similarly, if a claim has already been processed under one of these procedures, it may not be the subject of a claim under the other.

§ 6 Designation of Duties of Employment Dispute Resolution Coordinator

The Court designates the Chief Probation Officer to serve as the Employment Dispute Resolution Coordinator (EDR Coordinator) under this Plan for matters arising in the Office of the Clerk of the District Court and the Office of the Clerk of the Bankruptcy Court; and the Clerk of the Bankruptcy Court to serve as the Employment Dispute Resolution Coordinator (EDR Coordinator) under this Plan for matters arising in the Probation and Pretrial Services Office. The duties of the EDR Coordinators shall include the following:

- A. To provide information to the Court and employees regarding the rights and protections afforded under this Plan;
- B. To coordinate and organize the procedures and establish and maintain official files of the Court pertaining to claims and other matters initiated and processed under this Plan;
- C. To coordinate the counseling of individuals in the initial stages of the claims process, in accordance with Section 8 of this Chapter; and,
- D. To collect, analyze, and consolidate statistical data and other information pertaining to the Court's employment dispute resolution process.

§ 7 General Disqualification Provision

A party may seek disqualification of a judicial officer, employee or other person involved in a dispute by written request to the Chief District Judge. Such written request shall contain facts regarding why the individual should be disqualified. If the Chief District Judge is named as being involved in a dispute, the Chief District Judge will ask the next most senior judge of the District Court in regular active service who is available and qualified to serve to decide the disqualification request.

§ 8 Counseling

A. Initiating a Proceeding; Formal Request for Counseling

An employee who believes that his or her rights under Chapters II through VII of this Plan have been violated must first request counseling.

B. Form, Manner, and Timing of Requests

Requests for counseling:

1. are to be submitted to the Court's EDR Coordinator;
2. must be made in writing and contain all the violations asserted by the claimant (*copy of approved form is contained in Appendix*); and
3. must be made within 30 days of the alleged violation or within 30 days of the time the employee becomes aware of the alleged violation.

C. Procedures

1. Who May Serve as Counselor

The counseling shall be conducted by the Court's EDR Coordinator, unless the EDR Coordinator is disqualified from serving as counselor under § 7 of this Chapter, or is otherwise unavailable. If the EDR Coordinator is unavailable, the Chief District Judge shall designate another qualified individual to perform the counseling function. The EDR Coordinator shall promptly provide a copy of the request for counseling to the unit executive and the Chief District Judge of the Court.

2. Purposes of Counseling

The purposes of the counseling shall be to discuss the employee's concerns and elicit information regarding the matter which the employee believes constitutes a violation; to advise the employee of his or her rights and responsibilities and the procedures of the Court applicable to the employment dispute resolution process; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

3. Confidentiality

Unless waived by the employee, the Court or employing office shall protect the confidentiality of allegations filed under this Plan to the extent possible. However, information about allegations filed under this Plan shall be shared on a need-to-know basis. Records relating to violations under this Plan shall be kept confidential.

4. Form of Settlement

The EDR Coordinator shall reduce to writing any settlement achieved during the counseling process and secure the signatures of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing offices behalf.

D. Duration of Counseling Period

The counseling period shall be 30 days (or a shorter period if counseling is concluded at an earlier date), beginning on the date the request for counseling is received by the EDR Coordinator. The counseling period may be extended by the mutual agreement of the counselor and the employee for an additional 30 day period.

E. Conclusion of the Counseling Period and Notice

The EDR Coordinator shall notify the employee in writing of the end of the counseling period. As part of the notice, the EDR Coordinator shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the EDR Coordinator a request for mediation in accordance with § 9 of this Chapter.

§ 9 Mediation

A. Initiation

Within 15 days after receipt by the employee of the notice of the conclusion of the counseling period, the employee may file a request for mediation with the EDR Coordinator. The request must be made in writing and must state the claim(s) presented (*copy of approved form is contained in Appendix*). The EDR Coordinator shall promptly provide a copy of the request for mediation to the unit executive and the Chief District Judge of the Court. Failure to pursue mediation will preclude further processing of the employee's claim under any other provisions of this Chapter.

B. Procedures

1. Designation of Mediator

As soon as possible after receiving the request for mediation, the Chief District Judge or EDR Coordinator shall designate a mediator and provide written notice of such designation.

2. Who May Serve as Mediator

Any person with the skills to assist in resolving disputes, except the Courts EDR Coordinator, may serve as a mediator under this Plan.

3. Purpose of Mediation

The mediator shall consult separately and/or jointly with the employee and his or her representative, if any, and the employing office to discuss alternatives for resolving a dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution.

4. Confidentiality

Any person or party involved in the mediation process shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process, except as necessary to consult with the parties or their representatives, and then only with notice to all parties.

5. Form of Settlement

The mediator shall reduce to writing any settlement achieved during the mediation process and secure the signature of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf.

C. Duration of Mediation Period

The mediation period shall be 30 days (or a shorter period if mediation is concluded at an earlier date), beginning on the date the request for mediation is received. The employee is required to attend at least one mediation session. Thereafter, he or she may proceed to file a request for hearing. The mediation period may be extended by the mutual agreement of the mediator and the employee for an additional 30-day period.

D. Conclusion of Mediation Period and Notice

If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the EDR Coordinator shall provide the employee, the employee's representative, if any, and the employing office with written notice that the mediation period has concluded. The notice shall also inform the employee of his or her right to file a complaint under § 10 of this Chapter.

§ 10 Complaint and Hearing

A. Complaint

Not later than 15 days after receiving written notice of the end of the mediation period, an employee may file a complaint with the EDR Coordinator, who will transmit the complaint to the Chief District Judge and to the respondent. The complaint must be in the form approved by the Court (*copy of approved form is contained in Appendix*). Claims that were not presented in §9(A) may not be pursued. The respondent shall be the employing office which would be responsible for redressing, correcting or abating the violation(s) alleged in the complaint. No individual shall be named as a respondent in the complaint.

B. Hearing Procedures

1. Presiding Judicial Officer

If the Chief District Judge or designee (“judicial officer”) does not dismiss the complaint under the preceding subsection, the presiding judicial officer shall hold a hearing on the merits of the complaint unless he or she determines that no material factual dispute exists.

2. Specific Provisions

The presiding judicial officer may provide for such discovery and investigation as is necessary. In general, the presiding judicial officer shall determine the time, place, and manner of conducting the hearing. However, the following specific provisions shall apply to hearings conducted under this Section:

- a. the hearing shall be commenced no later than 60 days after the filing of the complaint;
- b. the complainant and the head of the office against which the complaint has been filed must receive written notice of the hearing; such notice shall also be provided to the individual alleged to have violated rights protected by this Plan;
- c. at the hearing, the complainant will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses; the employing office will have the right to representation, to present evidence on its behalf and to cross-examine adverse witnesses; the individual who is the subject of the complaint will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses;
- d. a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;
- e. in reaching a decision, the presiding judicial officer shall be guided by judicial and administrative decisions under the laws related to Chapters II through VII of this Plan and by decisions of the Judicial Council of the Circuit under § 11 of this Chapter;

f. remedies may be provided in accordance with § 12 of this Chapter where the presiding judicial officer finds that the complainant has established by a preponderance of the evidence that a substantive right protected by this Plan has been violated;

g. the final decision of the presiding judicial officer must be issued in writing not later than 60 days after the conclusion of the hearing; and

h. all parties, or any aggrieved individual, shall have the right to written notice of any action taken as a result of a hearing.

§ 11 Remedies

A. Where judicial officers acting pursuant to § 10 or 11 of this Plan find that a substantive right protected by this Plan has been violated, they may order a necessary and appropriate remedy. A remedy may be directed at correcting a past violation, prospectively ensuring compliance with the rights protected by this Plan, or both. A remedy shall be tailored as closely as possible to the specific violation involved.

B. Remedies which may be provided to successful complainants under this Plan include, but are not limited to:

1. placement of an employee in a position previously denied;
2. placement in a comparable alternative position;
3. reinstatement to a position from which previously removed;
4. prospective promotion to a position;
5. priority consideration for a future promotion or position;
6. back pay and associated benefits, including attorneys fees, where the statutory criteria of the Back Pay Act, 5 U.S.C. § 5596, are satisfied;
7. records modification and/or expungement;
8. "equitable" relief, such as temporary stays of adverse actions;

9. granting of family and medical leave; and

10. accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours, or other appropriate means.

C. Remedies which are not legally available include:

1. payment of attorneys fees (except as authorized under the Back Pay Act);

2. compensatory damages; and

3. punitive damages.

§ 12 Review of Decision

A party or individual aggrieved by a final decision of the Chief District Judge or presiding judicial officer, or by a summary dismissal of the complaint, may petition for review of that decision under procedures established by the Judicial Council of the Fourth Circuit. A petition for review must be received by this Court's EDR Coordinator within 30 days of the date of the letter to the parties transmitting the order. Any review will be conducted by a judicial officer(s), based on the record created by the hearing officer, and shall be affirmed if supported by substantial evidence. The Fourth Circuit's Procedures for Considering Petitions for Review are located in the Circuit Judicial Council Handbook, which is available on the internal website for the Fourth Circuit Court of Appeals.

§ 13 Record of Final Decisions

Final decisions of the presiding judicial officer shall not name the complainant or individual respondents. In addition, the presiding judicial officer has the discretion to remove sensitive information contained in the final decision that may inadvertently identify the parties. Once final action on a complaint has been taken and is no longer subject to review, the final decision of the presiding judicial officer shall be available to the public free of charge by written request to the EDR Coordinator.

CHAPTER X. REPORTS

§ 1 Court Unit Reports

Each Court unit will prepare a brief report for the EDR Coordinator describing its efforts to provide equal employment opportunities under Chapter II of this Plan. This report will also provide the information required by the Administrative Office for personnel actions occurring in the previous year and will be submitted to the EDR Coordinator in time to meet the due date prescribed by the Administrative Office.

§ 2 Objectives

Each Court unit will develop annually its own objectives which reflect those improvements needed in recruitment, hiring, promotions, and advancement.

§ 3 Annual Report

The Chief Probation Officer will prepare for the Court's approval an annual report for the year ending September 30, consolidating the data and statements received from each Court unit. The report will include tables to be provided by the Administrative Office of the United States Courts consolidating the information provided by each Court unit. It will also describe instances where significant achievements were made in providing equal employment opportunities, will identify areas where improvements are needed, and will explain factors inhibiting achievement of equal employment opportunity objectives. Upon approval by the Chief District Judge, this report will be submitted by the EDR Coordinator to the Administrative Office of the United States Courts by the due date.

In addition, the annual report submitted by the EDR Coordinator will indicate:

- A. The number and type of alleged violations for which counseling was conducted;
- B. The number and type of alleged violations for which mediation was conducted;
- C. The number and type of complaints filed;
- D. The number and type of complaints resolved without a hearing;

- E. The number and type of complaints resolved with a hearing; and
- F. The number and type of complaints for which Judicial Council review was sought.

The type of violation or complaint shall be reported according to the Chapter(s) of the Plan involved and, with respect to allegations under Chapter II, according to the type(s) of discrimination alleged. The report will not identify the names of the parties involved.

CHAPTER XI. DISTRIBUTION AND PUBLIC NOTICE

Copies of this Plan shall be given to all employees and, upon request, to members of the public.

**REQUEST FOR COUNSELING
UNDER THE CONSOLIDATED
EQUAL EMPLOYMENT OPPORTUNITY
and
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Plan"). Please complete this form legibly. If there is insufficient space you may attach additional pages.

1. Name of Person Requesting Counseling: _____
2. Address: _____

3. Home Phone: _____ Work: _____
4. If you are a Court employee, state the following:
Court Unit in which employed: _____
Job Title: _____
5. Name and address of the Employing Office from which you seek resolution of your dispute: _____

6. Date(s) of incident or decision giving rise to dispute: _____
7. Please summarize the actions or occurrences giving rise to this dispute: _____

8. What corrective action do you seek in this matter?

9. Are you willing to waive confidentiality in order to permit the counselor to contact the employing office or to attempt a resolution of the disputed matter?

☐ Yes ☐ No

This request for counseling is submitted by:

Signature

Date

Counselor's Signature

Date of Receipt

**REQUEST FOR MEDIATION
UNDER THE CONSOLIDATED
EQUAL EMPLOYMENT OPPORTUNITY
and
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Plan"). Please complete this form legibly. If there is insufficient space you may attach additional pages.

1. Name of Person Requesting Mediation: _____
2. Address: _____

3. Home Phone: _____ Work: _____
4. If you are a Court employee, state the following:
Court Unit in which employed: _____
Job Title: _____
5. Name and address of the Employing Office from which you seek resolution of your dispute: _____

6. Date(s) of incident or decision giving rise to dispute: _____
7. Please summarize the actions or occurrences giving rise to this dispute:

8. List below all claims you wish to raise in mediation. Any claims not advanced in mediation may not be pursued in a complaint filed under this Plan.

9. What corrective action do you seek in this matter? _____

10. Date counseling was initiated: _____

11. Date of receipt of notice of conclusion of counseling: _____

12. Name of person providing counseling: _____

This request for mediation is submitted by:

Signature

Date

Recipient's Signature

Date of Receipt

**COMPLAINT OF DISCRIMINATION
UNDER THE CONSOLIDATED
EQUAL EMPLOYMENT OPPORTUNITY
and
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Plan"). Please complete this form legibly.

1. Full Name of Person Filing Complaint: _____
2. Address: _____

3. Home Phone: _____ Work: _____
4. If you are a Court employee, state the following:
Court Unit in which employed: _____
Job Title: _____
5. Name and address of the Employing Office against whom this complaint is filed (under the terms of the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States District Court for the Middle District of North Carolina, all complaints must be against the Employing Office, *not an individual*):

6. Identify the Chapter(s) of the Plan under which your complaint is being filed.

☐ Chapter II-Equal Employment Opportunity and Anti-Discrimination Rights

☐ Race

☐ Color

☐ Religion

☐ Sex (includes Sexual Harassment)

☐ National Origin

☐ Age (at least 40 years old at the time of the alleged discrimination)

☐ Disability

☐ Chapter III-Family and Medical Leave Rights

☐ Chapter IV - Worker Adjustment and Retraining Notification Rights

☐ Chapter V-Employment and Reemployment Rights of Members of the
Uniformed Services

☐ Chapter VI-Occupational Safety and Health Protections

☐ Chapter VII-Polygraph Tests

7. Date(s) of alleged violation _____

8. Date on which counseling was requested _____

Date on which counseling was completed _____

Date on which mediation was requested _____

Date on which mediation was completed _____

9. Name of person who served as Counselor on this matter _____

10. Name of person who served as Mediator on this matter _____

11. Please summarize the actions or occurrences giving rise to your complaint. Explain in what way you believe your rights under the Plan were violated. Identify all persons who participated in this matter or who can provide relevant information concerning your complaint. (If there is insufficient space below, you may attach additional pages.)

[Please attach a copy of any documents that relate to your complaint, such as an application form, resume, letters of discipline or termination, etc.]

12. What corrective action do you seek from your complaint?

13. Do you have an attorney or any other person who represents you in this matter?

☐ Yes ☐ No

If yes, please provide the following information concerning that person:

Name _____

Address _____

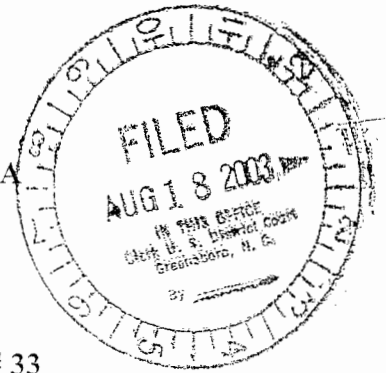
Work Phone _____ Email Address _____

I affirm that the information provided in this complaint is true and correct to the best of my knowledge.

Signature

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



EMPLOYMENT DISPUTE)
RESOLUTION PLAN)

Amended
Standing Order # 33

For good cause appearing to the Court, this Court adopts, for all Units of this Court, as tailored for this court, the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States Court of Appeals for the Fourth Circuit, dated August 2003. The Chief Probation Officer shall serve as the EDR Coordinator for matters arising in the Office of the Clerk of the District Court and the Office of the Clerk of the Bankruptcy Court. The Clerk of the Bankruptcy Court shall serve as the EDR Coordinator for matters arising in the Probation Office.

This the 18th day of August, 2003.

FOR THE COURT:

William L. Stocks
William L. Stocks, Chief Judge
United States Bankruptcy Court

Catharine R. Carruthers
Catharine R. Carruthers, Judge
United States Bankruptcy Court

FOR THE COURT:

N. Carlton Tilley, Jr.
N. Carlton Tilley, Jr., Chief Judge
United States District Court

Frank W. Bullock, Jr.
Frank W. Bullock, Jr., Judge
United States District Court

William L. Osteen
William L. Osteen, Judge
United States District Court

James A. Beaty, Jr.
James A. Beaty, Jr., Judge
United States District Court

Consolidated Equal
Employment Opportunity

and

Employment Dispute Resolution Plan

of the

United States District Court
for the Middle District of North Carolina

August 2003

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CHAPTER I. GENERAL PROVISIONS

§ 1 Preamble

This Plan shall be known as the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States District Court for the Middle District of North Carolina (“Consolidated Plan”). This Plan integrates the rights and protections of the Equal Employment Opportunity Plan adopted by the Judicial Council of the Fourth Circuit Court of Appeals with the additional rights and procedures of the Model Employment Dispute Resolution Plan adopted by the Judicial Conference of the United States in March 1997. The Consolidated Plan supersedes the Court’s Equal Employment Opportunity Plan, promulgated in Standing Order Number 16, dated March 3, 1987.

The Consolidated Plan’s rights and protections are comparable to those provided to legislative branch employees under the Congressional Accountability Act of 1995. The Plan addresses the following workplace and employment issues:

- Equal Employment Opportunity and Anti-Discrimination Rights
- Family and Medical Leave Rights
- Worker Adjustment and Retraining Notification Rights
- Employment and Reemployment Rights of Members of the Uniformed Services
- Occupational Safety and Health Protections
- Polygraph Tests
- Employment Dispute Resolution Procedures for Claims of the Denial of The Rights Afforded Under This Consolidated Plan

This Consolidated Plan is not intended to duplicate the protections provided for the resolution of complaints of judicial officer misconduct or disability under 28 U.S.C. § 372(c). It is intended to be the exclusive remedy of the employee relating to rights enumerated under this Consolidated Plan. Such general employment dispute procedures as exist regarding adverse action and personnel grievances that do not invoke the protections of this Consolidated Plan are not modified and remain in effect.

Individuals covered under the scope of this Consolidated Plan may seek timely redress through these procedures. These procedures, however, are not intended to be a replacement for the working relationship which must exist between supervisors and employees, nor are they intended to interfere in the administrative process of the Court. It is the policy of this Court to resolve employee disputes at the lowest possible level through open and informal communication between all levels of employees, supervisors, managers, unit executives, or judicial officers. However, this policy shall not be applied to restrict immediate resort to the services of the EDR coordinators when appropriate.

§ 2 Scope of Coverage

This Consolidated Plan applies to:

- Article III judges of the United States District Court for the Middle District of North Carolina
- Bankruptcy Judges of the Middle District of North Carolina
- Magistrate Judges of the Middle District of North Carolina
- Chambers staff of judicial officers

The unit executive and staff of the following Court units:

- Clerk of the District Court
- Clerk of the Bankruptcy Court
- Probation Office

§ 3 Definitions

For purposes of this Consolidated Plan:

- A. The term “employee” includes all individuals listed in § 2 of this Chapter, as well as all applicants for employment and former employees, except the following individuals are *specifically excluded and are not covered* under this Consolidated Plan: externs, applicants for magistrate judge positions, private attorneys who apply to represent indigent defendants under the Criminal Justice Act, criminal defense investigators not employed by federal public defenders, volunteer counselors or mediators, or other individuals who are not employees of an “employing office” as that term is defined below.
- B. The term “employing office” includes all offices of the United States District Court for the Middle District of North Carolina, including the Offices of the Clerk of the District Court, Clerk of the Bankruptcy Court and Probation Office. The Court is the employing office of a Judge’s chambers staff.
- C. The term “judicial officer” means a District Judge (including Senior District Judge) of the United States District Court for the Middle District of North Carolina appointed pursuant to Article III of the United States Constitution; a Bankruptcy Judge of the Middle District of North Carolina, or a Magistrate Judge of the United States District Court of the Middle District of North Carolina.
- D. The term “court” or “Court” refers to the United States District Court for the Middle District of North Carolina.

§ 4 Designation and Duties of The Employment Dispute Resolution Coordinator

The Court designates the Chief Probation Officer to serve as the Employment Dispute Resolution Coordinator (EDR Coordinator) under this Consolidated Plan for matters arising in the Office of the Clerk of the District Court and the Office of the Clerk of the Bankruptcy Court; and the Clerk of the Bankruptcy Court to serve as the Employment Dispute Resolution Coordinator (EDR Coordinator) under this consolidated Plan for matters arising in the Probation Office. The duties of the EDR Coordinators shall include the following:

- A. To provide information to the Court and employees regarding the rights and protections afforded under this Consolidated Plan;
- B. To coordinate and organize the procedures and maintain official files of the Court pertaining to complaints and other matters initiated and processed under this Plan;
- C. To coordinate the counseling of individuals in the initial stages of the complaint process, in accordance with Chapter VIII of this Plan; and
- D. To collect, analyze, and consolidate statistical data and other information pertaining to this Plan and the employment dispute resolution process, and prepare for the Court's approval an annual report on implementation of the Plan.

§ 5 Implementation

The Court shall implement and periodically evaluate the Consolidated Plan. On behalf of the Court, the Chief Judge will submit modifications in the Plan for approval by the District Judges of this Court.

CHAPTER II. EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-DISCRIMINATION RIGHTS

§ 1 General

Discrimination against employees based on race, color, religion, sex (including sexual harassment), national origin, age (at least 40 years of age at the time of the alleged discrimination), and disability is prohibited. Each Court unit within the United States District Court for the Middle District of North Carolina will promote equal opportunity through a program encompassing all facets of personnel management including recruitment, hiring, promotion, and advancement. This program is not intended to modify or reduce the qualification standards for employment in the Federal courts as such standards have been approved by the Judicial Conference of the United States.

§ 2 Definition

For purposes of this Consolidated Plan, the term “disability” means:

- A. a physical or mental impairment that substantially limits one or more of the major life activities of an employee;
- B. a record of such an impairment; or
- C. being regarded as having such an impairment. *See* 42 U.S.C. § 12102(2).

§ 3 Organization

A. Unit Executives

The Clerk of the District Court, the Clerk of the Bankruptcy Court and the Chief Probation Officer must ensure that all vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and all hiring decisions are based solely on job-related factors. They should make reasonable efforts to see that the skills, abilities, and potential of each employee are identified and developed and that all employees are given equal opportunities for promotions by being offered, when the work of the Court permits and within the limits of available resources, cross-training, reassignments, job restructuring, special assignments, and outside job-related training.

B. Judges, Unit Executives, Court Managers and Supervisors

Judges, Unit Executives, Court managers, and supervisors must apply equal employment opportunity practices and policies in their work units. This includes giving each employee a fair and equal opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for personnel actions and awards recognizing such achievements. As resources permit, it also requires providing training programs which enable employees to develop their job skills fully.

§ 4 Personnel Practices

A. Recruitment

Each Court unit will seek qualified applicants who reflect the make-up of all such persons in the relevant labor market. Each unit will publicize all vacancies.

B. Hiring

Each Court unit will make its hiring decisions strictly upon an evaluation of a person's qualifications and ability to perform the duties of the position satisfactorily. Hiring decisions shall be made without regard to race, color, religion, sex, national origin, age, or disability.

C. Promotion

Each Court unit will promote employees according to their experience, training and demonstrated ability to perform duties of a higher level. Promotion decisions shall be made without regard to race, color, religion, sex, national origin, age, or disability.

D. Advancement

Each Court unit will seek insofar as reasonably practicable to improve the skills and abilities of its employees through cross-training, job restructuring, assignments, details, and outside training.

CHAPTER III. FAMILY AND MEDICAL LEAVE RIGHTS

§ 1 General

Title II of the Family and Medical Leave Act of 1993, 29 U.S.C. § 2611, applies to Court employees in the manner prescribed in Volume I-C, Chapter X, Subchapter 1630.1, Section R, of the *Guide to Judiciary Policies and Procedures*.

CHAPTER IV. WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS

§ 1 General

No "employing office closing" or "mass layoff" (as defined in Section 2 of this Chapter) may occur until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to employees who will be affected. This provision shall not apply to an employing office closing or mass layoff that results from the absence of appropriated funds.

§ 2 Definitions

A. The term "employing office closing" means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

B. The term “mass layoff” means a reduction in force which--

1. is not the result of an employing office closing; and
2. results in an employment loss at the single site of employment during any 30-day period for
 - a. (1) at least 33 percent of the employees (excluding any part-time employees); and
 - (2) at least 50 employees (excluding any part-time employees); or
 - b. at least 500 employees (excluding any part-time employees). *See* 29 U.S.C. § 2101

CHAPTER V. EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

§ 1 General

An employing office shall not discriminate against an eligible employee or deny an eligible employee reemployment rights or benefits under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 *et seq.*

CHAPTER VI. OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS

§ 1 General

Each employing office shall provide to its employees a place of employment which is free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Complaints which seek a remedy that is exclusively within the jurisdiction of the General Services Administration (“GSA”) to provide are not cognizable under this Consolidated Plan; such request should be filed directly with GSA.

§ 2 Court Program Requirements - The Court will implement a program to achieve the protections set forth in § 1 of this Chapter.

CHAPTER VII. POLYGRAPH TESTS

§ 1 General

No employee may be required to take a polygraph test.

CHAPTER VIII. DISPUTE RESOLUTION PROCEDURES

§ 1 General Procedures for Consideration of Alleged Violations

An individual covered under this Consolidated Plan who claims a denial of the rights granted hereunder shall seek resolution of such claims through the procedures of this Chapter.

Generally, the procedural process consists of:

- A. Informal attempts to resolve disputes at the Court unit level;
- B. Counseling by the appropriate EDR Coordinator;
- C. Mediation by either a Bankruptcy Judge or a Magistrate Judge designated by the Chief Judge of the United States District Court for the Middle District of North Carolina.
- D. Hearing before the Chief Judge of the United States District Court for the Middle District of North Carolina (or a designated hearing officer); and
- E. Review of the hearing decision under procedures established by the Judicial Council of the Circuit.

§ 2 General Provisions and Protections

A. Prohibition Against Retaliation

Complainants under this Consolidated Plan have the right to be free from retaliation, coercion, or interference because of filing a complaint pursuant to this Plan. Likewise, any person who participates in the filing or processing of a complaint, such as an EDR Coordinator, mediator, witness, representative, or co-worker, is also entitled to freedom from retaliation.

B. Right to Representation

Every individual invoking the dispute resolution procedures of this Consolidated Plan has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. A Court employee may accept the responsibilities of representation if it will not unduly interfere with his or her Court duties or constitute a conflict of interest, as determined by the representative's appointing officer.

C. Case Preparation

To the extent feasible, every individual invoking the dispute resolution procedures of this Consolidated Plan may use a reasonable amount of official time to prepare his or her case, so long as it does not unduly interfere with the performance of his or her Court duties.

D. Determining Time Periods

The word “days” in all filing and other time periods specified in this Consolidated Plan shall mean calendar days, except that if the deadline date falls on a Saturday, Sunday or holiday, the deadline shall be extended to the following Court business day.

E. Extensions of Time

The Chief Judge of the District Court, or other presiding judicial officer, may extend any of the deadlines set forth in this Consolidated Plan for good cause. The time periods for counseling and mediation may also be extended as provided in §§ 5 and 6 of this Chapter.

F. Records

At the conclusion of formal and informal proceedings under this Consolidated Plan, all papers, files, and reports will be filed with the appropriate EDR Coordinator. No papers, files or reports relating to a dispute will be filed in any employee’s personnel folder, except as necessary to implement an official personnel action.

G. Election of Remedies

If an employee files an appeal of an adverse action or grievance in addition to a complaint under this Plan concerning the same or substantially the same subject matter, the employee must elect either (a) the Consolidated Plan or (b) the grievance/adverse action appeal procedures under which the complaint is to be processed. An employee may not utilize both (a) and (b). Similarly, if a complaint has already been processed under one of these procedures, it may not be the subject of a complaint under the other.

§ 3 General Disqualification Provision

A party may seek disqualification of a judicial officer, employee or other person involved in a dispute by written request to the Chief District Judge. Such written request shall contain facts regarding why the individual should be disqualified. If the Chief District Judge is named as being involved in a dispute, the Chief District Judge will ask the next most senior judge of the District Court to decide the disqualification request.

§ 4 Informal Resolution Attempts

Any employee of this court is urged to openly and freely bring any employment related matter or concern to the attention of his or her supervisor, manager or unit executive. Free and open communication, good faith, and understanding on the part of all court employees, at all levels, will in almost all cases eliminate the need to resort to the more formal procedures of counseling by an EDR coordinator; mediation; complaint, review and hearing, or appeal.

§ 5 Counseling

A. Initiating a Proceeding; Formal Request for Counseling

An employee who believes that his or her rights under Chapters II through VII of this Consolidated Plan have been violated may request counseling.

B. Form, Manner, and Timing of Requests

Requests for counseling:

1. are to be submitted to the appropriate EDR Coordinator,
2. must be made in writing (*copy of approved form is contained in Appendix*); and
3. must be made within 30 days of the alleged violation or within 30 days of the time the employee becomes aware of the alleged violation.

C. Procedures

1. Who May Serve as Counselor

The counseling shall be conducted by the appropriate EDR Coordinator, unless the EDR Coordinator is disqualified from serving as counselor under § 3 of this Chapter or is otherwise unavailable. If the EDR Coordinator is unavailable, the Chief District Judge shall designate another qualified individual to perform the counseling function. If the EDR Coordinator is disqualified, the Chief District Judge shall designate another qualified individual to perform the counseling function. If the dispute involves an alleged violation of this Consolidated Plan by a judicial officer, the person who conducts the counseling shall be designated by the Chief District Judge.

2. Purposes of Counseling

The purposes of the counseling shall be to discuss the employee's concerns and elicit information regarding the matter which the employee believes constitutes a violation; to advise the employee of his or her rights and responsibilities and the procedures of the Court applicable to the employment dispute resolution process; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

3. Confidentiality

All counseling shall be kept confidential unless the employee agrees in writing to waive confidentiality of the counseling process for the purpose of allowing the designated counselor to contact the employing office or to attempt a resolution of the disputed matter. A written record of all such contacts must be kept by the counselor and made available for review by the affected person(s).

4. Form of Settlement

The EDR Coordinator shall reduce to writing any settlement achieved during the counseling process and secure the signatures of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf. The original settlement agreement shall be filed with the EDR Coordinator, with copies served on the parties and their representatives.

D. Duration of Counseling Period

The counseling period shall be 30 days (or a shorter period if counseling is concluded at an earlier date), beginning on the date the request for counseling is received by the EDR Coordinator. The counseling period may be extended by the mutual agreement of the counselor and the employee for an additional 30 day period.

E. Conclusion of the Counseling Period and Notice

The EDR Coordinator shall notify the employee in writing of the end of the counseling period. As part of the notice, the EDR Coordinator shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the EDR Coordinator a request for mediation in accordance with § 6 of this Chapter.

§ 6. Mediation

A. Initiation

Within 15 days after receipt by the employee of the notice of the conclusion of the counseling period, the employee may file a request for mediation with the EDR Coordinator. The request must be made in writing and must state the claims(s) presented (*copy of approved form is contained in Appendix*). Failure to pursue mediation will preclude further processing of the employee's claim under any other provisions of this Chapter.

B. Procedures

1. Designation of Mediator

As soon as possible after receiving the request for mediation, the EDR Coordinator shall designate a mediator and provide written notice of such designation.

2. Who May Serve as Mediator

Any person with the skills to assist in resolving disputes, except an EDR Coordinator, may serve as mediator under this Plan. The mediator shall be designated by the Chief District Judge.

3. Purpose of Mediation

The mediator shall consult separately and/or jointly with the employee and his or her representative, if any, and the employing office to discuss alternatives for resolving a dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution.

4. Confidentiality

Any person or party involved in the mediation process shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process, except as necessary to consult with the parties or their representatives, and then only with notice to all parties. A written record of all such contacts must be kept and made available for review by the affected person(s). In addition, in the event the employee files a complaint pursuant to § 7 of this Chapter, the hearing officer shall have access to the Request for Mediation form for the purpose of determining whether the claims made in the complaint were raised in mediation.

5. Form of Settlement

The mediator shall reduce to writing any settlement achieved during the mediation process and secure the signature of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf. The original settlement agreement shall be filed with the EDR Coordinator, who will promptly transmit copies to the parties and their representatives.

C. Duration of Mediation Period

The mediation period shall be 30 days (or a shorter period if mediation is concluded at an earlier date), beginning on the date the request for mediation is received. The employee is required to attend at least one mediation session. Thereafter, he or she may proceed to file a complaint. The mediation period may be extended by the mutual agreement of the mediator and the employee for an additional 30-day period.

D. Conclusion of Mediation Period and Notice

If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the EDR Coordinator shall provide the employee, the employee's representative, if any, and the employing office with written notice that the mediation period has concluded. The notice shall also inform the employee or his or her right to file a complaint under § 7 of this Chapter.

§ 7 Complaint, Review, and Hearing

A. Complaint

Not later than 15 days after receiving written notice of the end of the mediation period, an employee may file a complaint with the EDR Coordinator, who will transmit the complaint to the Chief Judge and to the respondent. The complaint must be in the form approved by the Court (*copy of approved form is contained in Appendix*). The respondent shall be the employing office which would be responsible for redressing, correcting or abating the violation(s) alleged in the complaint. No individual shall be named as a respondent in the complaint.

B. Response

The respondent shall have 15 days to file a written response to the complaint with the EDR Coordinator, who will transmit the response to the Chief Judge and the complainant.

C. Review of Pleadings

1. Reviewing Official

The complaint, response, and any other documents shall be reviewed by the Chief District Judge or his designee, who shall make recommendations to the Chief District Judge regarding disposition of the complaint. In the event the Chief District Judge is disqualified under § 3 of this Chapter, or is unavailable to serve, the next most senior judge shall assume the responsibilities of the Chief District Judge under this Chapter. In the case of a complaint alleging that an Article III judge has violated rights protected by the Consolidated Plan, that judge may elect to have a hearing conducted by a judge of another court, as designated by the Judicial Council of the Circuit. Any designation of a judicial officer from another court to hear and decide the case shall be arranged by agreement of the chief judges of the affected courts.

2. Review Procedures

After notice to the complainant, including notice of any recommendations made by the Chief District Judge's designee upon review of the complaint, and an opportunity to respond, the Chief District Judge may dismiss in writing any complaint that is found to be frivolous, is unduly repetitive of a previous complaint, fails to state a claim upon which relief may be granted, or makes claims that were not advanced in mediation. Failure to object to recommendations made by the designee for dismissal of the complaint shall constitute a waiver of such objections.

D. Hearing Procedures

1. Hearing Officer

If the Chief District judge does not dismiss the complaint under the preceding subsection, the Chief District Judge or his designee, acting as the hearing officer, shall hold a hearing on the merits of the complaint unless the Chief District Judge determines that no material factual dispute exists.

2. Specific Provisions

The hearing officer may provide for such discovery and investigation as is necessary. In general, the hearing officer shall determine the time, place, and manner of conducting the hearing. However, the following specific provisions shall apply to hearings conducted under this Section:

- a. the hearing shall be commenced no later than 60 days after the filing of the complaint;

- b. the complainant and the head of the office against which the complaint has been filed must receive written notice of the hearing; such notice shall also be provided to the individual alleged to have violated rights protected by this Plan whenever such individual is a judicial officer or when the hearing officer otherwise determines such notice to be appropriate;
- c. at the hearing the complainant will have the rights to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses; the employing office will have the rights to representation, to present evidence on its behalf and to cross-examine adverse witnesses;
- d. a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;
- e. if the hearing is conducted by the Chief District Judge's designee, the designee shall make findings and recommendations to the Chief District Judge, and shall serve a copy on the parties and their representatives. The parties may file any objections within 10 days of service of the findings and recommendations, and the Chief District Judge shall make his decision after review of such objections. Failure to file timely objections to the findings and recommendations shall constitute a waiver of such objections;
- f. in reaching a decision, the Chief District Judge shall be guided by judicial and administrative decisions under the laws related to Chapters II through VII of this Consolidated Plan and by decisions of the Judicial Council of the Circuit under § 8 of this Chapter.
- g. remedies may be provided in accordance with § 9 of this Chapter where the Chief District Judge finds that the complainant has established by a preponderance of the evidence that a substantive right protected by this Consolidated Plan has been violated;
- h. the final decision of the Chief District Judge must be issued in writing not later than 60 days after the conclusion of the hearing; and
- i. all parties, or an aggrieved individual, shall have the right to written notice of the Chief District Judge's decision. The original of the decision shall be filed with the EDR Coordinator who shall promptly transmit copies to all parties, their representatives, and any aggrieved individual.

§ 8 Review of Decision

A. Notice of Procedures for Review

A party or individual aggrieved by a final decision of the Chief District Judge, or by a summary dismissal of the complaint, may petition for review of that decision under procedures established by the Judicial Council of the Circuit. The EDR Coordinator shall inform all persons served with notice of the final decision of the Chief District Judge of the procedures for seeking review by the Judicial Council.

B. Timing and Form of Petition for Review

A petition for review must be received by the EDR Coordinator within 30 days of the date of the letter to the parties transmitting the order. The petition should be in the form of a letter, addressed to the EDR Coordinator, beginning "I hereby petition the judicial council for review of the Chief District Judge's order under the Consolidated Equal Employment Opportunity and Employees Dispute Resolution Plan of the United States District Court for the Middle District of North Carolina...." There is no need to enclose a copy of the original complaint. Only one copy of the petition is required. The letter should set forth a brief statement of the reasons why the petitioner believes that the Chief District Judge or designated judicial officer's determinations were in error. The letter must be signed.

§ 9 Remedies

A. Where judicial officers acting pursuant to § 7 or § 8 of this Consolidated Plan find that a substantive right protected by this Consolidated Plan has been violated, they may order a necessary and appropriate remedy. A remedy may be directed at correcting a past violation, prospectively ensuring compliance with the rights protected by this Consolidated Plan, or both. A remedy shall be tailored as closely as possible to the specific violation involved.

B. Remedies which may be provided to successful complainants under this Consolidated Plan include, but are not limited to:

1. placement of an employee in a position previously denied;
2. placement in a comparable alternative position;
3. reinstatement to a position from which previously removed;
4. prospective promotion to a position;
5. priority consideration for a future promotion or position;

6. back pay and associated benefits, including attorneys' fees, where the statutory criteria of the Back Pay Act, 5 U.S.C. § 5596, are satisfied;
7. records modification and/or expungement;
8. "equitable" relief, such as temporary stays of adverse actions;
9. granting of family and medical leave; and
10. accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours.

C. Remedies which are *not* legally available include:

1. payment of attorneys' fees (except as authorized under the Back Pay Act);
2. compensatory damages; and
3. punitive damages.

§ 10 Record of Final Decisions

Final decisions of the Chief District Judge shall not name the complainant or individual respondents. In addition, the Chief District Judge has the discretion to remove sensitive information contained in the final decision that may inadvertently identify the parties. Once final action on a complaint has been taken and is no longer subject to review, the final decision of the Chief District Judge shall be available to the public free of charge by written request to the EDR Coordinator.

CHAPTER IX. REPORTS

§ 1 Court Unit Reports

Each Court unit will prepare a brief report for the EDR Coordinator describing its efforts to provide equal employment opportunities under Chapter II of this Plan. This report will also provide the information required by the Administrative Office for personnel actions occurring in the year ending September 30 and will be submitted to the EDR Coordinator by November 1 of each year.

§ 2 Objectives

Each Court unit will develop annually its own objectives which reflect those improvements needed in recruitment, hiring, promotions, and advancement.

§ 3 Annual Report

The Chief Probation Officer will prepare for the Court's approval an annual report for the year ending September 30, consolidating the data and statements received from each Court unit. The report will include tables to be provided by the Administrative Office of the United States Courts consolidating the information provided by each Court unit. It will also describe instances where significant achievements were made in providing equal employment opportunities, will identify areas where improvements are needed, and will explain factors inhibiting achievement of equal employment opportunity objectives. Upon approval of the Court, this report will be submitted by the Chief District Judge to the Administrative Office of the United States Courts by November 30 of each year.

In addition, the annual report submitted by the EDR Coordinator will indicate:

- A. The number and type of alleged violations for which counseling was conducted;
- B. The number and type of alleged violations for which mediation was conducted;
- C. The number and type of complaints filed;
- D. The number and type of complaints resolved without a hearing;
- E. The number and type of complaints resolved with a hearing; and
- F. The number and type of complaints for which Judicial Council review was sought.

The type of violation or complaint shall be reported according to the Chapter(s) of the Plan involved and, with respect to allegations under Chapter II, according to the type(s) of discrimination alleged. The report will not identify the names of the parties involved.

CHAPTER X. DISTRIBUTION AND PUBLIC NOTICE

Copies of this Consolidated Plan shall be given to all employees and, upon request, to members of the public.

**REQUEST FOR COUNSELING
UNDER THE CONSOLIDATED
EQUAL EMPLOYMENT OPPORTUNITY
and
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Consolidated Plan"). Please complete this form legibly. If there is insufficient space you may attach additional pages.

1. Name of Person Requesting Counseling: _____
2. Address: _____

3. Home Phone: _____ Work: _____
4. If you are a Court employee, state the following:
Court Unit in which employed: _____
Job Title: _____
5. Name and address of the Employing Office from which you seek resolution of your dispute: _____

6. Date(s) of incident or decision giving rise to dispute: _____
7. Please summarize the actions or occurrences giving rise to this dispute: _____

8. What corrective action do you seek in this matter?

9. Are you willing to waive confidentiality in order to permit the counselor to contact the employing office or to attempt a resolution of the disputed matter?

☐ Yes ☐ No

This request for counseling is submitted by:

Signature

Date

Counselor's Signature

Date of Receipt

**REQUEST FOR MEDIATION
UNDER THE CONSOLIDATED
EQUAL EMPLOYMENT OPPORTUNITY
and
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Consolidated Plan"). Please complete this form legibly. If there is insufficient space you may attach additional pages.

1. Name of Person Requesting Mediation: _____
2. Address: _____

3. Home Phone: _____ Work: _____
4. If you are a Court employee, state the following:
Court Unit in which employed: _____
Job Title: _____
5. Name and address of the Employing Office from which you seek resolution of your dispute: _____

6. Date(s) of incident or decision giving rise to dispute: _____
7. Please summarize the actions or occurrences giving rise to this dispute:

8. List below all claims you wish to raise in mediation. Any claims not advanced in mediation may not be pursued in a complaint filed under this Consolidated Plan.

9. What corrective action do you seek in this matter? _____

10. Date counseling was initiated: _____

11. Date of receipt of notice of conclusion of counseling:

12. Name of person providing counseling: _____

This request for mediation is submitted by:

Signature

Date

Recipient's Signature

Date of Receipt

**COMPLAINT OF DISCRIMINATION
UNDER THE CONSOLIDATED
EQUAL EMPLOYMENT OPPORTUNITY
and
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Consolidated Plan"). Please complete this form legibly.

1. Full Name of Person Filing Complaint: _____
2. Address: _____

3. Home Phone: _____ Work: _____
4. If you are a Court employee, state the following:
Court Unit in which employed: _____
Job Title: _____
5. Name and address of the Employing Office against whom this complaint is filed (under the terms of the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States District Court for the Middle District of North Carolina, all complaints must be against the Employing Office, *not an individual*):

6. Identify the Chapter(s) of the Consolidated Plan under which your complaint is being filed.
☐ Chapter II-Equal Employment Opportunity and Anti-Discrimination Rights

- ☐ Race
- ☐ Color
- ☐ Religion
- ☐ Sex (includes Sexual Harassment)
- ☐ National Origin
- ☐ Age (at least 40 years old at the time of the alleged discrimination)
- ☐ Disability

- ☐ Chapter III-Family and Medical Leave Rights
- ☐ Chapter IV - Worker Adjustment and Retraining Notification Rights
- ☐ Chapter V-Employment and Reemployment Rights of Members of the
Uniformed Services
- ☐ Chapter VI-Occupational Safety and Health Protections
- ☐ Chapter VII-Polygraph Tests

7. Date(s) of alleged violation _____
8. Date on which counseling was requested _____
- Date on which counseling was completed _____
- Date on which mediation was requested _____
- Date on which mediation was completed _____
9. Name of person who served as Counselor on this matter _____
10. Name of person who served as Mediator on this matter _____
11. Please summarize the actions or occurrences giving rise to your complaint. Explain in what way you believe your rights under the Consolidated Plan were violated. Identify all persons who participated in this matter or who can provide relevant information concerning your complaint. (If there is insufficient space below, you may attach additional pages.)

[Please attach a copy of any documents that relate to your complaint, such as an application form, resume, letters of discipline or termination, etc.]

12. What corrective action do you seek from your complaint?

13. Do you have an attorney or any other person who represents you in this matter?

☐ Yes ☐ No

If yes, please provide the following information concerning that person:

Name _____

Address _____

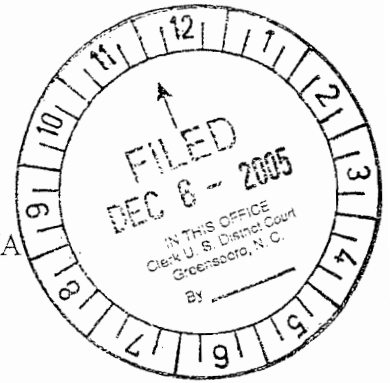
Work Phone _____ Fax _____

I affirm that the information provided in this complaint is true and correct to the best of my knowledge.

Signature

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



TESTIMONY OF JUDICIARY)
PERSONNEL AND PRODUCTION)
OF JUDICIARY RECORDS IN)
LEGAL PROCEEDINGS)

STANDING ORDER 35

For good cause appearing to the Court, this court adopts the regulations established by the Judicial Conference of the United States at its March 2003 meeting regarding Testimony of Judiciary Personnel and Production of Judiciary Records in Legal Proceedings. These regulations shall apply to the probation office staff and are applicable to official court records maintained by the probation office. The Court further adopts the following additions and modifications to the Judicial Conference Regulations.

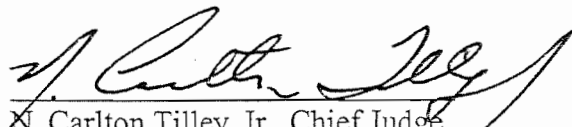
IT IS ORDERED that:

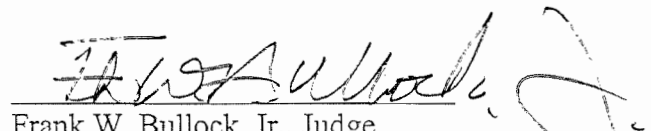
1. The determining officer as defined by Judicial Conference Regulations shall consult with the Chief Judge regarding any subpoena or order served on judiciary staff requesting testimony or production of records.
2. If the Chief Judge is unavailable, the determining officer shall consult with the sentencing judge if that judge is available or the next most senior judge in the sentencing judge's absence regarding any subpoena or order served on judiciary staff requesting testimony or production of records.

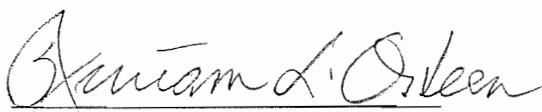
3. The presentence report is to be maintained as a confidential court document and shall enjoy the same confidentiality standards which are described in paragraph 7 of Standing Order 20. The court has final discretion to permit or withhold disclosure of presentence or supervision information. The court, as the entity for which the information is collected and as the employer of the probation officer, retains the authority to permit or deny release of that information.

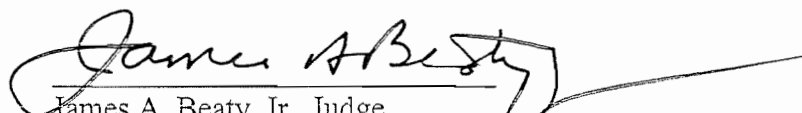
Accordingly, IT IS ORDERED that the local modifications and the attached Judicial Conference Regulations are hereby adopted.

This the 6th day of December, 2005


N. Carlton Tilley, Jr., Chief Judge
United States District Court


Frank W. Bullock, Jr., Judge
United States District Court


William L. Osteen, Judge
United States District Court


James A. Beaty, Jr., Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



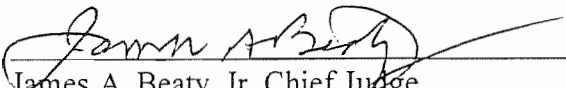
LIMITED AUTHORIZATION)
TO RELEASE PRESENTENCE)
REPORTS)

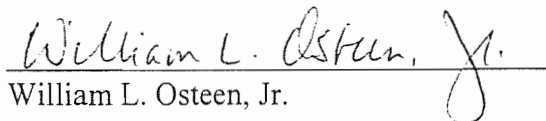
STANDING ORDER NO. 36

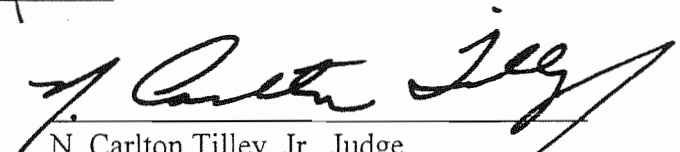
For good cause appearing to the Court, this court authorizes the probation office to release copies of the presentence report to the government and counsel representing defendants who are seeking relief available due to a retroactive amendment of the sentencing guidelines under 18 U.S.C. § 3582(c)(2) and USSG § 1B1.10. Under these provisions, Courts must evaluate the effect of a retroactive amendment on the guideline range that was calculated at a defendant's sentencing. If a defendant seeking relief under 18 U.S.C. § 3582(c)(2) and USSG § 1B1.10 through legal counsel or the United States specifically requests a copy of that defendant's Presentence Report (PSR), the Court authorizes the Probation Office to disclose that PSR to the government and legal counsel for said defendant. In accordance with current Federal Bureau of Prisons policy, no PSRs will be provided to inmates.

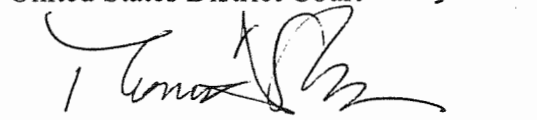
IT IS SO ORDERED.

This 30th day of JANUARY, 2008.

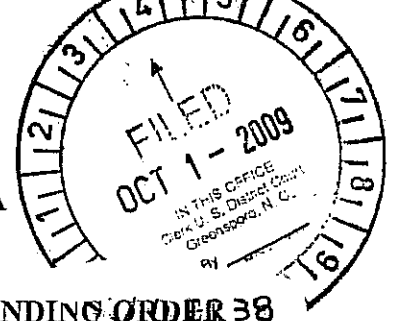

James A. Beaty, Jr., Chief Judge
United States District Court


William L. Osteen, Jr.
United States District Court


N. Carlton Tilley, Jr., Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA



IN RE:)
SUPPLEMENTAL JUROR ATTENDANCE FEES)

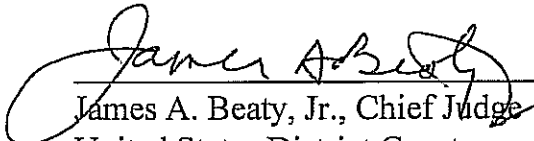
STANDING ORDER 38

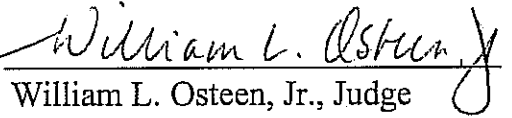
ORDER

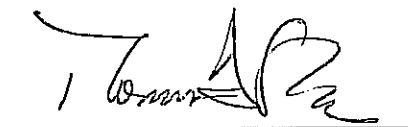
Pursuant to Title 28, United States Code, Section 1871(b)(2) a petit juror required to attend more than ten days in hearing one case may be paid an additional fee, not exceeding \$10 more than the attendance fee for each day in excess of ten days. Pursuant to Title 28, United States Code, Section 1871(b)(3), a grand juror may be paid an additional fee not exceeding \$10 more than the attendance fee for each day in excess of forty-five (45) days of actual service.

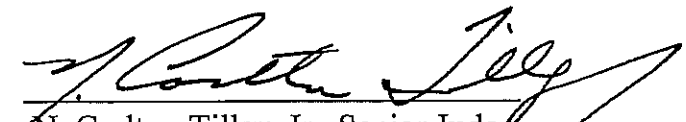
IT IS ORDERED that the supplemental \$10 fee is to be applied automatically to petit and grand jurors when they reach the statutory minimum for the increase, without prior leave of the court.

This the 1st day of October, 2009.

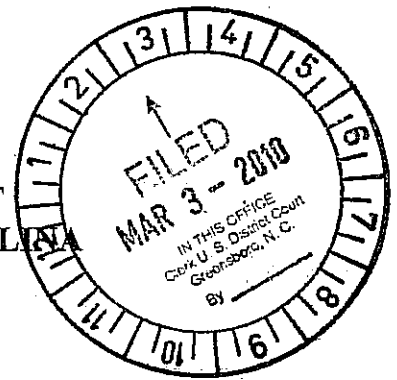

James A. Beaty, Jr., Chief Judge
United States District Court


William L. Osteen, Jr., Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court


N. Carlton Tilley, Jr., Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



IN RE:)

REFUND POLICY FOR ERRONEOUS)
ELECTRONIC FILING FEES)
_____)

STANDING ORDER 39

ORDER

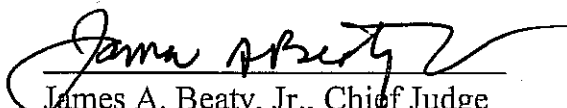
Pursuant to longstanding Judicial Conference Policy, there has been a general prohibition against the refund of filing fees. In recent years, the Judicial Conference has recognized that the use of credit cards to pay filing fees via credit cards for electronically filing documents may result in errors, and, accordingly, has given guidance to courts for establishing policies to be followed to refund erroneously charged filing fee payments.

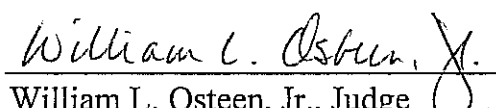
In consideration of the Judicial Conference's guidelines regarding the refund of electronic filing fees, it is Ordered that the Clerk of Court, or the Clerk's designee, shall be authorized to refund a filing fee erroneously paid via credit card:

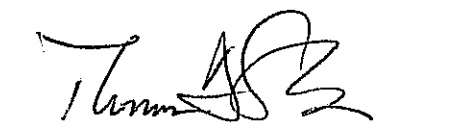
- (1) if discovered by the Court or the Clerk's Office that a fee has been erroneously paid; or
- (2) if an attorney requests a refund and it can be determined by the Clerk of Court, or the Clerk's designee, that the fee has been erroneously paid.

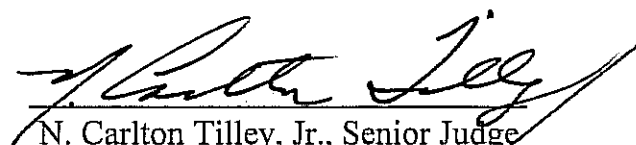
Upon verification of the error, the refund shall be processed back to the same credit card from which the erroneous payment was made and written record of the refund maintained in the Clerk's financial records.

This the 3rd day of March, 2010.


James A. Beaty, Jr., Chief Judge
United States District Court

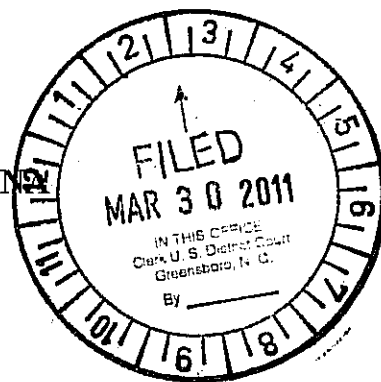

William L. Osteen, Jr., Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court


N. Carlton Tilley, Jr., Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ORDER ADOPTING LOCAL RULES OF)
CIVIL AND CRIMINAL PRACTICE)



IT APPEARING to the Court that the Committee on Rules of Practice and Procedures of the Judicial Conference of the United States Court has issued Guidelines on the use of standing orders and local rules, and that the content of Standing Orders 10, 11, 13, 20, 21, 22 and 34 should be placed in the Court's local rules;

IT FURTHER APPEARING that the provisions of Local Civil Rule 7.1(b) regarding personal data identifiers are no longer needed in the Court's local rules as the personal data identifier rules are now included in Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1;

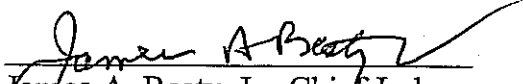
IT FURTHER APPEARING that certain typographical errors, gender descriptions and minor organizational changes should be made to the Court's local rules; and

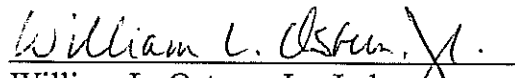
IT FURTHER APPEARING that changes have been proposed to the Local Rules to address the above described concerns, and that such changes have been given appropriate notice and opportunity for comment as required by 28 U.S.C. § 2071(b), Rule 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure.

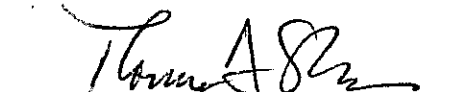
IT IS THEREFORE ORDERED that the following Local Rules of Civil and Criminal Practice in the United States District court for the Middle District of North Carolina be, and, they hereby are, adopted, effective 12:01 a.m., on the 1st day of April,


2011. At that time these local rules shall supersede local rules theretofore in effect and shall apply to all pending cases.

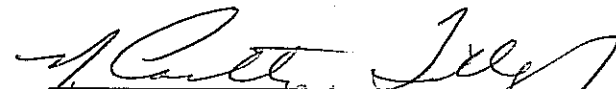
This the 30th day of March, 2011.


James A. Beaty, Jr., Chief Judge
United States District Court


William L. Osteen, Jr., Judge
United States District Court


Thomas D. Schroeder, Judge
United States District Court


Catherine C. Eagles, Judge
United States District Court


N. Carlton Tilley, Jr., Senior Judge
United States District Court